HOUSE OF REPRESENTATIVES—*Thursday, June 27, 1991*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GRAY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

JUNE 27, 1991.

I hereby designate the Honorable WILLIAM H. GRAY III to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are indebted to people who help point the way to justice and who walk the road of integrity. We know, O God, of the powerful influence of those to whom we look for guidance and strength and wisdom, and whose direction for our lives is so critical. Bless all those people whose lives so shine with the beauty of Your light and whose words and deeds proclaim the message of peace that they will remain in Your grace and heavenly care all their days. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentlewoman from Indiana [Ms. LONG] will please come forward and lead the Members in the Pledge of Allegiance to the flag.

Ms. LONG led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as "Women's History Month," and

H. Con. Res. 175. Concurrent resolution providing for an adjournment of the House from June 27, 1991 to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991 or Tuesday, July 2, 1991 to July 8, 1991.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 751. An act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

The message also announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 36. Joint resolution to designate the month of November 1991 and November 1992 as "National Alzheimer's Disease Month";

S.J. Res. 40. Joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week";

S.J. Res. 72. Joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week";

S.J. Res. 73. Joint resolution designating October 1991 as "National Domestic Violence Awareness Month";

S.J. Res. 78. Joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month";

S.J. Res. 92. Joint resolution to designate July 28, 1991, as "Buffalo Soldiers Day";

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month";

S.J. Res. 121. Joint resolution designating September 12, 1991, as "National D.A.R.E. Day";

S.J. Res. 125. Joint resolution to designate October 1991 as "Polish-American Heritage Month";

S.J. Res. 126. Joint resolution to designate the second Sunday in October of 1991 as "National Children's Day";

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week";

S.J. Res. 138. Joint resolution designating August 6, 1991, as "National Neighborhood Crime Watch Day";

S.J. Res. 142. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week";

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day";

S.J. Res. 154. Joint resolution to designate August 1, 1991, as "Helsinki Human Rights Day"; and

S.J. Res. 156. Joint resolution to designate the week of October 6, 1991, through October 12, 1991, as "Mental Illness Awareness Week."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 674) "An Act to designate the U.S. post office located at 304 West Commercial Avenue in Monterey, TN, as the 'J. E. Eddie Russell Post Office.'"

The message also announced that, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, the Chair announces, on behalf of the Republican leader, his appointment of Rod DeArment, of Virginia, and Mary McAuliffe, of Virginia, as members of the Congressional Award Board.

The message also announced that, pursuant to Public Law 86-380, the Chair, on behalf of the Vice President, appoints Mr. AKAKA, to the Advisory Commission on Intergovernmental Relations, vice, Mr. LEVIN, resigned.

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 9, 1991

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 27, 1991.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 9, 1991.

THOMAS S. FOLEY,
Speaker, House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

APPOINTMENT OF MEMBERS TO THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER pro tempore. On behalf of the Speaker, pursuant to the provisions of section 3(a) of Public Law 86-380, the Chair announces the Speaker's apppointment of the following Members of the House to the Advisory Commission on Intergovernmental Relations: Mr. WEISS of New York and Mr. THOMAS of Wyoming.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

APPOINTMENT TO A TASK FORCE TO MAKE FINDINGS AND RECOMMENDATIONS FOR ENVIRONMENTAL RESTORATION AT MILITARY BASES SCHEDULED FOR CLOSURE

The SPEAKER pro tempore. On behalf of the Speaker, pursuant to the provisions of section 2923(e)(2) of Public Law 101-510, the Chair announces the Speaker's appointment of Mr. Don Gray of Fort Washington, MD, to the task force to make findings and recommendations for environmental restoration at military bases scheduled for closure.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. HOYER. Mr. Speaker, by direction of the Democratic caucus, I offer a privileged resolution (H. Res. 186) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 186

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Education and Labor: John W. Olver, Massachusetts to rank following Mr. Roemer, Indiana.

Committee on Science, Space, and Technology: Eliot L. Engel, New York; John W. Olver, Massachusetts.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROPOSED TAX CREDIT FOR CHILDREN RAISES WEIGHTY ISSUES

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, does the country know that 1 out of 5 children grow up in poverty? Does the country know that 1 out of 4 children grow up with only one parent? Does the country know that 25 percent of our high school students drop out or that 1 out of 2 Hispanics do not make it out of high school?

Mr. Speaker, recently the National Commission on Children delivered a very useful report, the centerpiece being a $1,000 tax credit for every young child. A lot of important issues were raised.

Should single parents, if the absent spouse did not pay his or her child support, get Government pay? Should there be any condition for this tax credit, or should the Government give payments on a no-strings-attached basis?

Should parents be given the choice of what public school their child attends? Should employers be forced to give workers job-protected leave for childbirth, adoptions, and family emergencies? Should more emphasis be put on helping families stay together and less on foster care?

Should children be guaranteed universal health coverage? Should employers be required to extend health insurance to both children and pregnant women who are required to contribute to Government insurance programs?

A lot of important issues are raised by this report, Mr. Speaker. Let us focus more on the future. Let us focus on domestic programs, on children.

KUWAIT SOFTENS SENTENCES

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, yesterday on the final day of martial law in Kuwait, the Crown Prince and Prime Minister Saad Abdullah Al-Sabah commuted the death sentences of 29 persons convicted of collaborating with Iraq.

I commend the Crown Prince for this bold move which, I am sure, is not popular in all circles in Kuwait. Having personally visited Kuwait and seen the horrors of Iraqi brutality, I can understand the Kuwaiti people's demand for ultimate justice to those who helped Iraq and caused so much pain and suffering. It's hard to forgive and show leniency under these circumstances.

I am encouraged by this judicial action and the ending of 4 months of martial law in Kuwait. Coupled with the announcement of elections next year, I hope this marks the beginning of a new phase of real political and legal reforms in Kuwait. While over 300 cases have been dismissed or resulted in acquittals, I hope the remaining 125 cases now transferred to the regular court system will be tried with fairness and respect for due process and the rights of the accused.

INTRODUCTION OF LEGISLATION TO PROVIDE FOR ADJUSTMENT OF COLAS FOR TOP GOVERNMENT OFFICIALS

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, under current law, the President has the authority to reduce, cancel, or postpone COLA's for General Schedule employees during times of war or severe economic crisis, but there is no similar mechanism to reduce, cancel, or postpone COLA's for Members of Congress, Federal judges and Justices, or other top Government officials under these same dire circumstances.

This is simply an unfair situation. I am pleased that today a number of Members and I are introducing legislation to address this issue, to remedy what we believe is an inequity among those of us who work for the taxpayers of this Nation.

Our bill would simply provide that the rate of COLA's for Members, judges, and other top Government officials would never exceed that for General Schedule employees.

Mr. Speaker, the purpose of this legislation is simple—to treat the COLA's of Members of Congress, Federal judges and Justices, and other top Government officials the same as the COLA's of General Schedule Government employees. It is in the interest of fairness and equity that we introduce this measure.

□ 1110

REMOVE HUNGARY FROM LIST OF COMMUNIST NATIONS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, the Hungarian people's decades of struggle against Soviet communism paid off in 1989, when the joint efforts of the different democratic opposition groups forced the Hungarian Communist Party to end its monopoly on power and allow a peaceful transition to democracy and the dismantling of one-party rule.

Since then, the transformation of the Hungarian political landscape has been nothing short of breathtaking. Privatization of Government-owned businesses continues apace; the Hungarian Parliament has approved plans to return much of the property stolen by the Communists to the rightful owners; most important, as of last Wednesday, all Soviet troops have left Hungarian soil.

However, an anachronism in United States law remains unfixed. According to our statutes, Hungary remains classified as a Communist nation and is thus disqualified from several important economic and political benefits available to other friendly nations. To correct this anomaly, today I will be joining Congressman CHRISTOPHER COX and over 20 other colleagues in sponsoring legislation to remove Hungary from the official list of Communist nations. I hope our colleagues will join us in lifting this burden from the shoulders of the newly sovereign Hungarian people.

LUXURY TAXES ARE A NIGHTMARE

(Mr. GOSS asked, and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it's a nightmare. Thousands of middle class workers who have lost their jobs due to the luxury tax are wondering if someone

could pinch them and wake them up from this terrible dream. In one of its least smart moves, Congress turned the lights out on the boating, auto, and jewelry industries in last year's budget agreement.

I don't know how the number crunchers on Capitol Hill do their math, but in my view, when industries go bankrupt, people lose jobs, and the Treasury loses tax dollars all at the same time. Someone did not do their homework. Many say that it's Congress that has been asleep—and has refused to respond to the alarm bells going off. There were plenty of us who argued that trying to cut the deficit by raising taxes would backfire—and it has. Estimates are boat sales are down on the order of 84 percent this year and we're on our way to losing 19,000 boating jobs. Instead of raising revenue for the Treasury, the luxury tax has depressed industries and is actually costing the Government money.

Mr. Speaker, the people of southwest Florida prefer working to welfare. It is high time for a wake-up call. Let us admit the failure and get to work on a remedy—repeal the so-called luxury taxes.

SUPPORT DEMOCRACY AND MARKET REFORM FOR ALL PEOPLES

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, today, in a far away part of the globe, we are witnessing tragedy and triumph. We see, on one hand, the triumph of democracy and market reform. That has occurred, of course, in the Republics of Croatia and Slovenia.

We see, on the other hand, the tragedy of suppression, where another large ethnic majority in that country, through the use of force of its army, threatens to suppress the freely expressed hopes, wishes, and aspirations of a new day and a new dawn for democracy in that troubled country.

Slovenia, Yugoslavia, is the home of my parents and grandparents. I still have many family and friends who reside in that now troubled land.

This Nation, which preaches and, indeed, practices democracy and an open economic opportunity for all, must stand more four-square for those same principles when aspired to by other nations and other peoples who seek to emulate our success.

Mr. Speaker, I urge our State Department, I beseech our President, to speak more forcefully in support of democracy and in support of market reform, and more vigorously against the threat of violence which will suppress it.

SUPPORT FOR BICYCLISTS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, on Earth Day which we just recently celebrated, the gentleman from Washington [Mr. McDERMOTT] and I joined several dozen bicyclists of the local arena in a trip from Capitol Hill down to the White House through the congestion of traffic that is an everyday occurrence in Washington, DC.

As a result of that experience, we are introducing today legislation that will make a small step for mankind in the total number of issues that resound around the bicycle.

No. 1, we are going to try to provide that in each Federal courthouse across the land, there will be bicycle racks provided for those who will bicycle to work. What does that do? That gives incentives to engage in physical exercise and physical fitness, which we as Americans need so much; it will reduce the number of automobiles on the highway; it will conserve energy; and, overall, it will give us a sense of progress in this congested world of ours.

Mr. Speaker, this issue might not rise to the level of national security or world affairs, but it is a small step for our American mankind in these important issues.

WATER DESALINATION ACT OF 1991

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, providing this Nation and the world with fresh, usable water will be one of the greatest challenges we face. The Water Desalination Act of 1991 will revitalize an important Research and Development Program to convert fresh water from seawater. The program was initiated in 1953. President Kennedy was a fervent supporter of desalination research. He believed that economic desalination would serve the long-range interests of humanity and dwarf other scientific accomplishments.

The program flourished for 30 years until 1982 when the Reagan administration descontinued Federal funding. Technological advances in desalination could not have been possible without federally sponsored research and development. It is needed now more than ever. Severe drought conditions, growing populations, contaminated ground water, competing municipal, industrial, and agricultural uses all require water.

Without new research there will be increasing conflict over the existing, limited water supply. Cosponsor the Water Desalination Act of 1991 and we can prepare for the future.

COMMUNISTS IN BELGRADE SHOULD GIVE WAY TO DEMOCRACY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, there is good news, and there is bad news, out of Eastern Europe. The good news is progress continues in Poland and Czechoslovakia and Hungary. Great strides have been made in the cause of human freedom and progress. I join with the gentleman from California [Mr. COX] and others today in asking that we recognize that Hungary be redefined as a non-Communist country. That should be a matter of joy for all of us.

But at the same time, we must note that a dark cloud of conflict and repression still hangs over the Balkans. Yes, in Yugoslavia, the last vestiges of communism, the last tower of communism on this Earth, still clings to the people and oversees the people there in Yugoslavia, and it is bringing conflict and bloodshed.

Croatia and Slovenia have declared their independence, and we must let the communists in Belgrade know that we will not tolerate force and coercion and bloodshed to be used against the people of Slovenia and Croatia to force them into a confederation.

Mr. Speaker, the Communists in Belgrade should give way to democracy, and then reach a compromise with the people of Croatia and Slovenia. The only thing that has been holding back the progress of peace in that part of the world is this Communist dictatorship in Belgrade. We are asking for democracy for all of Yugoslavia, and for all parties to recognize the democratic rights of each other, and try to reach a compromise without conflict.

THE CHATTAHOOCHEE INDIAN HERITAGE CENTER AT FORT MITCHELL, AL

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, of all the sad, regrettable, conscience-stirring stories in the development of our great Nation, perhaps none is more sad or more regrettable than the story of the Great Trail of Tears that stained this land in the 1820's and 1830's.

A proud, highly civilized and gifted people were taken from their homes and forcefully settled in a West they had never seen.

They were marched westward, a direction that held special terror to the Indians, for the Indian the West represents blackness—the place where the Sun dies every day.

In 1833, just before the largest removal of the Indians began, a census

was conducted. It listed every household head of the Indian nation. In all, some 8,065 Indians lived along the Chattahoochee.

Today, on the site of Fort Mitchell, AL, a point of origin for the Creek Indian "Trail of Tears," the historic Chattahoochee commission is raising funds to build an Indian heritage center, a museum without walls on 9 acres of Fort Mitchell Park. Douglas Purcell is executive director of the Historic Chattahoochee Commission and a member of the board of directors of the Chattahoochee Indian Heritage Association.

I had the pleasure this spring of meeting with several board members: Former Congressman Jack Brinkley, my predecessor, chairman of the Chattahoochee Commission; Beverly Greer; John Lupold; Mr. Purcell; and Fred Sessell.

They told me that thus far they have raised $85,000 toward a goal of $700,000. They suggested that they would like to get help from the U.S. Army for in-kind assistance with the grading and engineering on the site. This probably comes under the National Guard or the Corp of Engineers. Or perhaps from a public spirited private construction company.

Former Congressman Brinkley asked for limited assistance in congressional appropriations. These are details to be considered after a site plan has been developed and the directors have consulted with the Bureau of Indian Affairs.

Details will come later. The point I wish to make today is to advise the Congress about the beginning of this important, historic project. It is to be located just across the Chattahoochee River from the Third Congressional District of Georgia, which I am honored to represent.

Let me add one more point. Very few good Americans are proud of the treatment of the natives of this proud land. The treatment of the Indians is a scar on our proud history. If this Indian Heritage Center at Fort Mitchell, AL, can right just a small bit of the wrong done here it will be a worthwhile project and one that I am proud to support.

□ 1120

H.R. 461 REQUIRES ACCOUNTABILITY FOR FEDERAL GOVERNMENT FOREIGN TRAVEL

(Mr. BARTON of Texas and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, Gov. John Sununu had done an outstanding job as a public servant, first as Governor of New Hampshire and most recently as Chief of Staff at the While House. He has an outstanding record of performance in those two positions.

Sometimes in this town and in the profession that we are in, the profession, of politics, when performance cannot be attached, one tries to attach personality. And some of Governor Sununu's detractors have seized on the issue of the travel around the country as a way to attack him.

I want to read a question from my most recent questionnaire that deals with congressional travel. It says:

Would you vote for H.R. 461? This bill requires greater accountability for Federal Government foreign travel by requiring Federal officials, including Members of Congress, to travel by the most economical means possible. It would also publicly disclose travel of individual Members.

Mr. Speaker, in answer to this question 914 constituents of my district, 96.7 percent have said they would vote for that bill; 29, or 3.1 percent said they would vote against it, and 2 say they are undecided.

Do my colleagues know how many Members we have that have cosponsored this legislation? Less than a dozen. The gentleman from Pennsylvania, Congressman KANJORSKI, a Democrat, is the original Democratic sponsor. I am one of the few Republican sponsors.

Mr. Speaker, I believe that before we attack the speck in Governor Sununu's eye, we take a point blank look at the plank in our eye and do something to clean up our own act in this body of our travel plans.

IN COMMEMORATION OF THE RETIREMENT OF GEN. ARVID E. WEST

(Mr. MORAN asked and was given permission to address the House for 1 minute).

Mr. MORAN. Mr. Speaker, I would like to take this opportunity to congratulate Brig. Gen. Arvid E. West on his retirement and thank him for the years of meritorious service he has dedicated to the U.S. Army and to improve the Fort Belvoir facility in Fort Belvoir, VA.

General West came to Fort Belvoir on September 1, 1989, with a command to "completely turn around and clean up" the Directorate of Logistics at Fort Belvoir. General West did just that. In 2 short years, General West's enthusiam and dedication has helped developed Fort Belvoir into a model facility, which has recently been recognized with the Army Community Excellence Award for the best medium-sized post.

General West, a native of Norway, MI, graduated from the U.S. Military Academy in 1956. He then served two tours of duty in Vietnam, where he was awarded the Silver and Bronze Stars, the Legion of Merit, four Oak Leaf Clusters, and the Purple Heart. General West has always been a natural leader and role model for those fortunate enough to serve under him and a friend for those fortunate enough to work with him in the community.

General West is a friend of mine and will be greatly missed by my constituents and by the U.S. Army. I am confident that he will apply the same level of professionalism and devotion to his new post with the Missouri Division of Public Highway Safety as he did in Fort Belvoir.

RESIGNATION AS MEMBER OF COMMITTEE ON EDUCATION AND LABOR

The SPEAKER pro tempore (Mr. GRAY) laid before the House the following resignation as a member of the Committee on Education and Labor:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 27, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Capitol Building, Washington, DC.

DEAR MR. SPEAKER: By way of this letter, I want to inform you and the Democratic Steering and Policy Committee of my resignation from the Committee on Education and Labor.

I very much appreciated the opportunity to serve under Chairman Ford. Also, I would like to thank the Steering and Policy Committee for their confidence in me as a temporary appointment.

If I may be of service in the future, please do not hesitate to contact me.

Sincerely,

PETER J. VISCLOSKY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

A BILL TO END COMMUNIST CLASSIFICATION FOR HUNGARY

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, last Wednesday, June 19, the Red army finally left Hungarian soil, the last troop left at that checkpoint. That ended almost 45 years of Red army occupation of Hungary.

For four long decades Hungary has suffered under Soviet communism and now, on Sunday, June 30—next Sunday—the Hungarian people officially will celebrate the withdrawal of the Soviet occupying force and the return of full Hungarian sovereignty.

I think it is only fitting for the Congress and the United States of America to help the Hungarian people celebrate. Today I am introducing a bill, a bill that I worked on drafting with my good friend, Hungarian President Goncz, a bill that is sponsored by 20 of my colleagues to officially end Hungary's classification as a Communist state in our laws.

Unfortunately, Hungary still is labeled as a Communist state in American laws and is thus denied many benefits made available to nations friendly to the United States. By officially recognizing that Hungary has successfully and peacefully made the transition from a Communist state to a free enterprise democracy, we in America can help speed that transition along.

I urge all of my colleagues, Democrats and Republicans, to join me in cosponsoring this legislation and in congratulating the people of Hungary, who are free at last.

A CALL FOR SUPPORT OF ESTONIA, LATVIA, AND LITHUANIA

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I want to rise, following Mr. COX's appropriate remarks. Hungary sees the withdrawal of Soviet troops. Lithuania, Latvia, and Estonia see the presence of Soviet troops.

Those three independent nations, occupied by Joseph Stalin in 1940, remain occupied to this day. Tragically, Lithuania in January saw its citizens slain who spoke out for freedom. Just this week, the Black Berets of the Ministry of Interior under the direction of Moscow moved to occupy certain communications facilities and still occupy the television station in Vilnius.

Mr. Speaker, this Nation has stood for the freedom of Eastern Europe, of Central Europe. This Nation, the President, the Congress, and our people must stand very strongly behind the people of Estonia, Latvia, and Lithuania as they reach out for freedom and the independence that this Nation has always recognized they had.

□ 1130

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ORTIZ] is recognized for 5 minutes.

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to the finest baseball team in Texas, the Robstown Cotton Pickers.

My hometown of Robstown, TX, is located just outside Corpus Christi, and this year the Cotton Pickers achieved that elusive goal of gaining the conference 4–A baseball championship at Disch-Falk Field in Austin. This was the fourth time the Cotton Pickers have vied for the State championship, each time coming just close enough to taste the victory that was finally theirs on June 7, 1991.

I would like to pay homage to this team of first class athletes whose spunk, tenacity, and dedication to the game finally resulted in the cherished medals of gold around their necks, signifying their hard-fought and long-sought victory. Baseball teaches many lessons to the young person, Mr. Speaker—lessons which these young men will carry with them for the rest of their lives. Baseball teaches sportsmanship, patience, dedication, and—most of all—this uniquely American sport teaches young people that victory is only made possible through teamwork.

Of all the lessons we want our children to learn, we should want them to learn that life is not a solo act, it is indeed a team sport. Winning and losing are all part of life, but I am sure that the Cotton Pickers will agree that winning is sweeter, provided that it is done within the rules.

I know these young people, their community, and their coaches. Each player, coach, family member, and community member deserves credit for this hard-sought victory. I am so very proud of these young men and the monumental effort it took for them to achieve this high honor. They are all superb athletes and exquisite young citizens. Go Pickers.

NEGOTIATION OF FREE TRADE WITH MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewomen from Illinois [Mrs. COLLINS] is recognized for 60 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, the Congress recently provided fast-track authority to the President to negotiate a free-trade agreement with Mexico. The President has promised to closely consult with Congress during the negotiations, and it is my intention as chairwoman of the Subcommittee on Commerce, Consumer Protection and Competitiveness to hold him to that promise.

Let me say now, and up front, that I am convinced that it is in our long term interests to improve our trade relationships with Mexico. That decision was largely due to a visit I and members of the competitiveness caucus made to Mexico where we met with President Salinas, other Mexican Government officials, as well as variety of American and Mexican businessmen, labor groups, environmentalists and others.

Today we do find ourselves in a globally competitive society. The European Community is attempting to join its economic forces, including the newly democratic republics of Eastern Europe. But as I shall discuss later, the European Community is approaching the matter, especially as it relates to the less developed economies of Greece and Spain, in a far different manner. There is also similar movement in the Asian rim nations of Japan, Singapore, Korea, Malaysia, and Thailand. It is therefore natural that we too should seek the competitive benefits that a North American free-trade agreement could bring.

But the issue for this continent is not quite that simple. Until recent years, trade negotiations dealt primarily with the elimination of tariff and quota barriers. Today, they deal increasingly with the technical standards which form the foundation of our national health, food safety, environmental and workplace safety policies.

Prior to the vote on May 23, our subcommittee completed a series of three hearings regarding the free-trade agreement and, inasmuch as negotiations actually began a week or so ago, I would like to share with my colleagues what we have learned. Our hearings focuses on three important areas of concern about the agreement: First, potential job losses; second, threats to our health and safety laws; and third, possible environmental damage.

Testimony received during the subcommittee's three hearings has led me to believe that an agreement with Mexico could result in major job losses here in the United States and a lower standard of living for American workers. In addition, I believe trade agreements may be used to weaken food safety regulation and enforcement here in the United States, and that an agreement with Mexico could result in severe damage to the environment.

Unfortunately, the administration has not done a good job of convincing Congress that it has a strong commitment to handling these issues. Jumping into a free-trade agreement is sure to have an impact on both economies, but that impact will not necessarily be good for us. According to a study by the International Trade Commission, and let me quote it, "real income for unskilled workers in the United States is likely to decline slightly."

Now the Commission's definition of unskilled workers includes 70 percent of the entire American work force. It would certainly be hard for me to explain to my constituents—many of whom are already on the low end of the income scale, that they should not worry if their incomes are reduced, or even worse, their jobs are lost because a Mexico free-trade agreement is "good in the long run."

The administration has seemed very unsympathetic toward those individuals who will lose their jobs.

In my own area of Chicago, a number of large firms have already made the move to Mexico leaving behind large numbers of unemployed workers who are unable to support their families as they had before. These are people who have worked every day of their lives; people who have saved their money to buy a home, and to put their children through school.

When a plant shuts down and moves to Mexico, it leaves in its wake not just unemployment, but shattered lives and lost opportunities. Homes may be lost; children may be forced to drop out of school; health care is often unavailable and the physical well-being of our people falls.

This is exactly the situation in Chicago. My city, like many others in the Northeast and Midwest is facing just such a spiral of declining services, with

a smaller and smaller working population base to fund these needed services.

We are finding that unemployment sends all sorts of ripples through the city. For example, hospitals find it more and more difficult to stay open as the number of those without health insurance increases and have to turn to the emergency room for medical care.

As a result of this, and a variety of other reasons, the hospital, and ultimately its insured patients—those left in the work force—pay these costs, thus raising the costs of insurance for all. The same could be said about the costs of governmental services. In the end, diminished services makes cities such as Chicago less attractive, less competitive, and that situation forces even more companies and individuals to move out of our city to areas where the work force is increasing.

As just one example, the Rheem manufacturing plant in Chicago closed last year. The Rheem plant made hot water heaters which were among the best on the market. The company was profitable and highly productive. But Rheem sold out to a Japanese firm, and the new Japanese owners moved the plant to Mexico in pursuit of low-wage, low-fringe benefit employees.

Eight hundred employees worked in Rheem's Chicago plant and were put out of work when the plant closed. They were left with no way to support their families. Not only did the State, local, and Federal governments suffer a loss in tax payments, but these unemployed workers had to be paid unemployment insurance, and they needed job training and other public services—much of which they have yet to receive.

In the last few years, an estimated 20,000 Illinois workers have lost their jobs because of plants closing and moving to Mexico. And, these are big plants too. Let me identify just a few manufacturers and firms from the Chicago area that have moved to Mexico: Quaker Oats Co. moved its Fisher-Price Division to Matamoros and Tijuana, Mexico; Zenith has moved to Chihauhua, Reynosa, and Matamoros; American Hospital Supply moved to Juarez; North American Phillips moved to Juarez; Lamkin Leather & Rubber Co. moved to Tijuana; Gould Electric Products moved to Juarez; R.R. Donnelly and Sons moved to Reynosa; Cooper Lighting moved to Juarez; Brunswick Corp. moved to Juarez; Eureka Manufacturing moved to Juarez; and Outboard Marine Corp. moved to Juarez.

And the list goes on and on. And, why are these firms leaving? The answer is, first, cheap labor, and second, practically no environmental regulation. While wages in all of Mexico's manufacturing sector average 16 percent of manufacturing wages here in the United States, in the Maquiladora plants where most of the growth has occurred in recent years, wages are far less.

Some of the workers in the Maquila plants are only paid between 60 and 80 cents an hour, hardly enough for subsistence. Many of these workers live in shacks made of materials discarded by the plants. Many of these plants do not have water treatment facilities that keep the drinking water supply for the workers free of contaminants.

One of the witnesses at one of our hearings, Mr. William J. Cunningham with the AFL–CIO, commented:

> There is great irony here. On the one hand, the maquiladoras have skyrocketed over the last 25 years . . . they now account for one-tenth of Mexico's industrial force, and they are Mexico's second largest earner of foreign exchange. But on the other hand, they have been an utter disaster for Mexican workers. In the 1980's—the boom decade for the maquiladoras—Mexican wages in dollars terms fell from the highest in the Third World to among the lowest.

And what about our own workers back here in the United States? United States firms moving to Mexico could actually create some new jobs in the Southwest States, where some American manufacturers might move more easily supply plants across the border in Mexico. But, the workers in the Midwest and Northeast, in particular, stand to suffer major job dislocations.

And what does the administration offer these workers? The President's action plan makes some vague commitment to providing trade adjustment assistance to workers who lose their jobs as a result of moves to Mexico. But, at the same time, the administration's own budget for next year contains no money whatsoever for trade adjustment assistance or for the Job Training Partnership Act which has never been funded. According to the representatives of organized labor at our hearings, the administration has made no commitment to provide funds at any level for trade adjustment assistance or to retrain displaced workers.

Perhaps the best evidence of the administration's insensitivity to workers is its own study. According to the administration, the International Trade Commission's study demonstrates that employment in the United States will increase and that the American economy will grow under a free-trade agreement with Mexico.

But if you look closely, you will find that what this study assumes, could never occur. This study assumes, not concludes, that both the United States and Mexico will achieve full employment, and maintain that full employment indefinitely. This is ludicrous. This study assumes, not concludes, that American manufacturers will not move to Mexico, and in fact that no American investment will be made in Mexico. This is ridiculous. They have and are moving across the border. Finally, this study assumes, not concludes, that the maquiladora plants in Mexico will continue to receive 98 percent of their raw materials and components from firms located here in the United States. I'd like to get a glimpse of the crystal ball into which they must be looking.

Currently, our unemployment rate is 6.6 percent, and Mexico's is 20 percent. It is debatable as to whether our economy has ever reached full employment, and Mexico's economy certainly has never achieved that lofty goal. To the contrary, Mexico is expected to continue its labor surplus into the indefinite future.

With respect to investment in Mexico by American firms, we know the administration's studies are equally unrealistic. For several years, direct investment in Mexico by American firms has been increasing by close to 15 percent each year. Yet the studies which the administration relies upon to justify its claim that a Mexico free-trade agreement will create jobs and growth in our own economy, do not even assume American firms will continue to make the same level of direct investment in Mexico that they are making right now.

Access to cheap Mexican labor is the main thing American firms want out of free trade, and these firms can only have cheap Mexican labor, if they make the necessary direct investments to relocate in Mexico. One witness at our hearing, Dr. William Spriggs, an economist with the Economic Policy Institute, has calculated that with even a modest increase in United States direct investment in Mexico, 550,000 people here in our own country would lose their jobs.

Let me quote from Dr. Spriggs' testimony:

> These three reports [that is, the reports cited by the administration to support its claim that free trade with Mexico will produce jobs and growth for the American economy] are based on a bold piece of speculation, namely, that there will be no movement of U.S. plants or facilities to Mexico in response to a FTA. This assumption flies in the face of the USITC [U.S. International Trade Commission] report * * * again for general industrial machinery and equipment, the report warns, "[A] FTA could result in a shift of production from the United States to Mexico as small and medium firms in both nations integrate their labor-intensive, low technology production processes to reduce costs * * * U.S. firms with operations in Mexico would maintain a cost advantage over those firms producing in the United States" (USITC Report, page 4–34).
>
> Of course, clearly the experience of the maquiladora (or Mexican in-bond industry sector) shows that portions of U.S. production have already moved to Mexico * * *. The models assume that no further movement will take place * * *. Yet the attraction of Mexico for U.S. manufacturers is not Mexico's smaller consumer economy—per capita GDP [Gross Domestic Product] in 1987 in Mexico was $1,725 compared to $18,436 in the U.S. and $16,162 in Canada. The attraction of Mexico is its labor force of almost 48 million forced to work for wages that average one-seventh of ours in Mexican manufac-

turing and one-fourteenth in the maquiladoras * * *.

Of course, no one knows precisely how much investment will be shifted. Spokespeople for corporations that are lobbying for the FTA are obviously not going to tell the Congress their intentions * * *. Since 1986, the U.S. direct foreign investment [DFI] position in Mexico has gone from $4.8 billion to $7.1 billion. This is an average annual increase of 13.6 percent. At that rate, by the year 2000, U.S. DFI in Mexico would be $28.8 billion, even without a FTA.

The study of potential job losses indicates that jobs can be lost in targeted industries, making the impact far more devastating for certain regions.

According to the testimony we received from Dr. Robert Cohen of the Economic Strategy Institute, here are the possible job losses in the coming years under a free-trade agreement with Mexico, rounded off to the nearest thousand: Autos: 8,000 to 13,000 jobs; auto parts: 42,000 to 63,000 jobs; radio and TV: 19,000 to 53,000 jobs; telecommunications: 10,000 to 22,000 jobs; machinery: 4,600 to 10,000 jobs; and electrical equipment: 4,000 to 16,000 jobs.

These are very large numbers. For example, based upon 1988 employment levels in each industry, the job loss in the auto parts industry would be 10 to 16 percent, and in the radio and TV manufacturing industry the loss could be 15 to 41 percent. Of course to the extent there has been job changes since 1988, these numbers may be different.

In calculating that free-trade agreement with Mexico would cost an additional 550,000 Americans their jobs, Dr. Spriggs assumed that United States direct investment in Mexico would a little more than double. Given the huge tariff reductions that a free-trade agreement would bring, as well as the removal of additional investment restrictions, a doubling of United States investment in Mexico is a very modest estimate.

Another defect in the studies cited by the administration is that they assume U.S. firms will continue to supply nearly all of the raw materials and components used by the maquiladoras. On this point, Dr. Spriggs cites the cases of the U.S. television tube industry which currently is protected by high tariffs. These tariffs help make our industry more competitive as compared to foreign tube producers. Dr. Spriggs says:

An example can be drawn from the television industry. Most U.S. producers of television sets use U.S.-produced tubes, but assemble a large portion of their product in Mexico to take advantage of Mexico's low labor costs.

The U.S. International Trade Commission report warns that:

Panasonic, with [a] FTA * * * would possibly shift its production of mid-sized television sets in Chicago to Mexico, which would reduce its U.S. labor force by about 100 workers. Moreover, Panasonic claims that this shift in production would reduce the competitive advantage over Mexican and other foreign producers of U.S.-produced tubes because of additional transportation costs (USITC Report, page 4-28).

That testimony should be taken under serious consideration by our trade negotiators.

When United States Trade Representative Carla Hills testified before the Commerce Subcommittee, she made the point that Mexico is our country's third largest trading partner. And in fact, trade with Mexico has jumped 300 percent in the past 4 years to $60 billion. During this time American exports to Mexico have doubled.

But, what Ambassador Hills failed to say is that at least half of our manufactured exports that we send to Mexico come right back to us in the form of finished products, for consumption here, not in Mexico. True, Mexico is buying more United States exports; but, we are buying most of those same products right back from them as soon as they have added their low wage labor in the assembly process.

Without a doubt our manufacturers benefit from this access to cheap labor. Under a free-trade agreement, it is easy to see how other foreign producers, Japanese, German, and others, could also benefit from tariff free treatment of goods they produce or assemble in Mexico and export to the United States.

An economist with the Economic Strategy Institute, Dr. Robert Cohen, testified that, if Mexican exports continue to come primarily to the United States, we could be creating a very powerful export base which foreign firms could use to increase their competitive advantage over domestic American firms. According to Dr. Cohen, Mexico's wage rates may be low, but its labor supply is becoming more skilled and is capable of supporting a full manufacturing base, not just assembly operations which many foreign manufacturers have already established.

Now let me underscore that again: Mexico's labor supply is becoming more skilled and is capable of supporting a full manufacturing base. My question then becomes, How soon will it be before Mexico raises its own wage rates and builds its own manufacturing plants that will compete with ours.

When one looks at tariff rates, we find that while average U.S. tariff rates may be low, tariffs for particular textile products, such as men's pants, for example, are quite high. Free trade with Mexico creates a powerful incentive for other foreign producers to move some part of their manufacturing operation to Mexico. In this way foreign textile and apparel producers can have an export platform to the United States. Dr. Cohen warned:

Some of the analysts who have looked very carefully at the Mexican industry base, particularly those in the maquiladoras, are making the point that this is very different from Greece and Spain, and it's different because Mexico is wedding a cheaper labor force with very sophisticated capital and new investment and a labor force that's very highly skilled, which you don't find in Greece and Spain.

This has the potential for creating a superniche, a more powerful export base than Taiwan, Hong Kong, or Singapore. One of the studies shows that in the auto industry alone, Mexican auto plants have 40% of their workers with university and technical school backgrounds, and in 1988, 12.3% of the employees in the maquilas were technicians, up nearly over 50% from 1975.

Nissan has announced it's putting a major, world-class auto facility in Mexico. VW has put one in already and is considering putting in another. They've already announced this. Two and a half billion dollars out of $3.5 billion out of new investment in the Mexico auto industry is non-U.S. from Nissan and VW.

And the same thing is going to happen in textiles and apparel. What is the tariff on men's pants? Those tariffs are between 30 and 75 percent. So if you produce in Mexico under a free trade agreement, you avoid those tariffs. You link into this very sophisticated new capital. You get the benefits of investment.

In other words, Mexico has the potential not just to replace low-skilled jobs, but eventually high-skilled jobs in direct competition with American workers.

A few weeks ago, I returned from Detroit with many of my colleagues where we had long discussions with the United Auto Workers and the big three auto manufacturers. Owen Bieber, the leader of the UAW, presented his case against granting the fast track authority that Congress has now voted for, and which took us out of the loop in the actual negotiations.

Mr. Bieber provided evidence that the sole reason that American jobs are moving to Mexico is low wages. He presented evidence that the single most important reason manufacturers move to Mexico is low wages. He provided a letter to manufacturers from a private Mexican firm that promotes maquiladoras, which began with:

There is great opportunity for your company to drastically reduce operating costs by taking advantage of Mexico's Maquiladora Program. As a U.S. manufacturer you have the advantage of the short distance from the lowest cost labor market in North America! Mexico! Furthermore, only a short flight to Laredo, McAllen or Brownsville.

Please consider that the fully fringed labor cost along the border averages $1.50 per hour. Just compare to your real cost of wages. This equates to almost $20,000 in savings per employee per year.

We think that this is significant enough for your consideration!

One important concern of the UAW is that Mexico may become a haven for the transshipment of automobiles. He points out there is the possibility that Japanese manuacturers may ship all of their Japanese auto parts to an assembly plant in Mexico where they could be assembled and shipped to the United

States, escaping the duties they would otherwise face.

Of course, one way to avoid this problem would be to establish strong rules of origin. In other words, tariffs and duties could be avoided only if a certain percentage of the value originated in North America. Unfortunately, our experience with the United States-Canada Free-Trade Agreement suggests that tough rules of origin may not be negotiated, particularly since fast track has been adopted.

During the negotiations on United States-Canada free trade, many in the auto industry, as well as Members of Congress argued for a rule of origin that required 60 percent of the value to be North American. The Canadian Government preferred 50 percent. Despite the strongly held views of many in Congress on this issue, including Energy and Commerce Committee chairman, JOHN DINGELL, the agreement provided just 50 percent.

A select automotive panel was also established under that agreement, which endorsed the higher 60-percent figure; and it was assumed that the Canadian Government would change its position after the panel issued its report. The Canadian Government has not changed its position, and the rules of origin continue.

The rules of origin could have a dramatic effect on increasing the widening trade deficit in the auto parts industry. In the past 5 years the trade deficit with Japan in the auto parts industry has grown from $3 to $10 billion. It is expected to grow to as much as $20 billion, according to the Department of Commerce.

The Motor and Equipment Manufacturers Association testified that the industry could be helped or harmed by a North American free-trade agreement, and that the difference was based upon the success in negotiating a number of highly complex matters. Again, with fast track in place, Congress will have only very limited input in this area.

During our visit to Detroit, Chrysler chairman Lee Iacocca gave a strong speech about our Nation's inability to conduct trade negotiations with the Japanese. They have overpowered us in many ways, because this administration has been so obsessed with the concept of free trade that they fail to recognize when other countries fail to share our attitudes.

I asked him for his views on the proposed North American free trade agreement. While he preferred not to directly address the issue, he said, and I will paraphrase him:

> You have to wonder whether an Administration that has done so poorly in our trade negotiations with Japan can be expected to do a better job with Mexico.

Let me now turn to a matter that I mentioned earlier: food safety.

Another of our witnesses, Mr. William J. Lehman, a U.S. Government meat inspector, gave us a disturbing glimpse into the administration's approach to free trade agreements. Mr. Lehman testified that the administration's free trade policies with Canada have left a food safety disaster in its wake, and that by virtually eliminating inspection of Canadian meat in the name of free trade, the administration is allowing Canada to dump contaminated and infected meat here in the United States, meat that they could not even sell in Canada.

Mr. Lehman told the subcommittee that under the administration's streamlined inspection for Canada, 93 percent of the Canadian meat coming into the United States is not inspected at all, and of the 7 percent that is inspected, 30 percent is regularly refused entry because it is contaminated or putrid. Mr. Lehman testified that daily he confronts Canadian meat that is contaminated with fecal material, oil stains, metal shavings, that is putrid or has puss-filled abscesses, and unsafe bacteria levels.

I want to quote important parts of Mr. Lehman's statement:

> In January 1989 the U.S.-Canada Free Trade Agreement, an agreement negotiated on the "fast track," went into effect. The same month, USDA issued new implementing procedures called: "Streamlined Canadian Inspection Program." These new procedures effectively gutted meat inspection.
>
> Prior to the U.S.-Canada Free Trade Agreement, USDA conducted 100% inspection of all meat imported to the U.S. from Canada. Under Streamlined Canadian Inspection, inspection is reduced from 100% to 7%. That means that only 1 out of every 15 trucks headed for U.S. markets from each Canadian packing plant are inspected. The other 14 trucks are designated "skip lots". And that is what they do: skip over the border without any review whatsoever. Even more shocking is the fact that under this new system, the Canadian packers are told which trucks will be inspected—before the trucks ever leave the loading dock. As if this did not create enough of an advantage for the Canadians, they are allowed to select the very samples to be inspected by USDA Import Inspectors. This lack of internal controls defies statistical sampling principles and threatens public health.

Public health has been threatened recently by the presence of the deadly listeria bacteria in Canadian meat. When children and young mothers are exposed to the listeria bacteria, fatality rates of 30 percent are possible. Last year, a Canadian woman is believed to have died after eating infected meat products. Many other deaths from listeria exposure are possible, but it is difficult in many cases to establish that listeria is the cause of death.

About the listeria problem, Mr. Lehman went on to say:

> Canada admittedly has a listeria problem in its meat industry. Although USDA takes laboratory samples for such things as Listeria, USDA lets the meat reach U.S. market two weeks before results are known. At the border, Import Inspectors take one pound samples which * * * are shipped by regular mail to one of three federal labs or to contract labs * * * samples are tested for Listeria—a potentially deadly bacteria—as well as antibiotics, poisons, pesticides and cancer causing hormonies. As an example, this cumbersome system allowed 3,700 lbs. of contaminated beef franks into United States commerce last June, before the results came back confirming listeria.

I should add that in response to questions at our hearing, Mr. Lehman said his Department of Agriculture supervisor once told him not to test a load of Canadian meat products for listeria, because the region had already met its quota for listeria tests that quarter. Mr. Lehman gave the following description of Canadian meat he has inspected:

> During the week of July 29 through August 4, 1990, I was instructed to inspect 363,276 lbs. of Canadian meat. I refused entry and returned to Canada 145,402 lbs., 40% contaminated due to metal shavings, fecal material, oil stains and putrid.
>
> From June 1 through December 31, 1990, I inspected samples from 3,423,879 lbs. of Canadian meat. I refused entry and sent back to Canada 1,032,044 lbs., 30% refused due to sour and putrid condition, blood clots, bruises, large bone fragments, hair, hide, even pathological defects like large green puss-filled abscesses and fecal material.
>
> If the samples are representative of the 8 million pounds that entered uninspected as skip loads, then, for example, during the June through December, 1990 period, shouldn't 30% of what entered the country uninspected have also been contaminated and unfit for human consumption.

Mr. Lehman also testified that under streamlined inspection for Canada, inspectors are no longer allowed to stamp "U.S. Refused Entry" on cartons of contaminated Canadian meat. Failure to stamp meat in this way now makes it possible for Canadian packers to reship contaminated meat through other United States ports of entry as one of the many skip lots that are never inspected. He told the subcommittee the story of a load of putrid Canadian meat that he blocked at the border and that he believes the packer reshipped two other times trying to get it into the United States.

Meat inspection is not the only example where the administration is allowing U.S. food safety regulations to be ignored through trade negotiations. Another of our witnesses, Ms. Lori Wallach of Public Citizen, challenged the administration's commitment to uphold U.S. rules that ban the usage of many pesticides on food.

The President said in his action plan for the Mexico negotiations that he would not agree to change any food safety laws under a free trade agreement. At the same time, he is negotiating at the GATT level on a new international standard for pesticides that would permit pesticides, including DDT, to be used on food.

Under a free trade agreement, Mexico would have the right to challenge, and potentially obtain exemptions from,

our regulations that protect the United States food supply from deadly pesticides. Thus, the administration's commitment simply not to negotiate a reduction in U.S. pesticide standards is not enough.

Even if we do not make any change in our U.S. laws pertaining to pesticide usage, our laws could be challenged as trade barriers if we enter into agreements that permit other countries to challenge our laws for being stricter than international standards. We could be forced to prove why our higher standard is justified to a GATT panel that would reach its decision in secret. If the GATT panel rules that our standards constitute a trade barrier, we could change our law, grant foreign producers an exemption from it, or give foreign countries some other trade concession that would compensate them for what our higher pesticide regulation costs them in lost agricultural trade.

Under these new GATT standards, for example, fruits and vetegables can contain DDT, alar, aldrin, and dieldrin, all banned in the United States. Let me cite a few examples which our witness provided to describe the kind of situation that could occur: Apples—10 times more DDT, 40 times more permethrin; bananas—50 times more DDT, 1.6 times more aldicarb; grapes—20 times more DDT; broccoli—33 times more DDT, 2 times more permethrin, 3 times more aldrin, 5 times more heptachlor; lettuce—33 times more DDT, 3 times more aldrin, 5 times more heptachlor; peaches—50 times more DDT, 2.5 times more aldrin; and potatoes—10 times more DDT, 5 times more diazinon, 5 times more heptachlor.

Many consumer and environmental safeguards, in addition to food, can be challenged under trade agreements. For example, Canada last year filed suit in Federal court here in the United States against the Environmental Protection Agency's proposed ban on imports containing asbestos. Canada claims there is not sufficient scientific evidence of the health danger we say asbestos poses for the public. I feel certain my colleague would agree that this Congress, not the Canadian Government, should have the right to make that determination for the American public.

Other environmental laws that could be challenged include: Ecology policies under the Clean Air and Clean Water Acts, such as reforestation or water conservation programs; industrial clean air programs under the Clean Air Act, such as industrial emissions control programs; and protections for endangered animals, such as bans of products made from nearly extinct species under the 1973 Endangered Species Act or rules under the Marine Mammal Protection Act against tuna harvested through dolphin-killing methods.

My colleagues should not dismiss the concerns being expressed by environmentalists and others as alarmism. There is good reason for concern as a recently released report by the European Community documents. In this report entitled, "Report on United States Trade Barriers and Unfair Practices 1991", the Community states:

This report seeks, in the interest of transparency, to identify obstacles to trade and investment and other unfair practices which exists in the U.S., as a first step towards their elimination through GATT negotiations or through a bilateral dialogue between the Community and the United States.

And what are the trade barriers identified by the Community; they include: our fuel economy standards for automobiles; our gas guzzler tax; Our marine mammal protection laws that prohibit dolphin-killing methods of fishing for tuna; our inspection of fruits and vegetables and other perishable agricultural products at the border; inspection of wine for pesticides and fungicides; and the inspection of meat at the border.

Like most of you, I have heard firms say they do not go to Mexico to escape environmental regulation in the United States. Well, let me tell you, it just is not so. At our hearings, the General Accounting Office [GAO] provided the first documentation that manufacturers do, in fact, relocate to avoid environmental regulation.

Contrary to Administration claims that American manufacturers would not flee environmental regulation in our country, the GAO report found that 78 percent of those furniture firms which relocated to Mexico from the Los Angeles area between 1988 and 1990, cited strict environmental regulation as a reason for their move. Furthermore, when I asked the senior vice president of the National Association of Manufacturers, Michael Baroody, whether he would support subjecting United States firms that move to Mexico to the same environmental standards and regulation they face in our country, he replied "no."

If you have ever visited Mexico City, you will know there is a serious pollution problem. Air there is about twice as bad as Los Angeles. Cars still use leaded gasoline. The air settles in between the mountains and doesn't leave.

The environmental consequences of increased trade between Mexico and the United States at the border cannot be denied. Rather than quote from the testimony of opponents of the free trade agreement on the issue, let me first begin with some quotes from newspapers and magazine articles on the subject.

The New York Times wrote on March 3, 1991:

The runaway pollution and accompanying health threats can be found in virtually any city along the U.S./Mexico border, which has undergone an economic explosion in recent years with the construction of highly profitable American owned factories operating under special trade rules. The American owners pay very low wages to the nearly half a million Mexicans they employ and are not obliged to use expensive anti-pollution equipment.

The Wall Street Journal wrote on September 27, 1989:

The very success of the maquiladoras is helping turn much of the border region into a sinkhole of absymal living conditions and environmental degradation.

Little is being done about the wholesale environmental destruction, health hazards and poor living conditions that the rush to the border has spawned.

Mexican officials aren't eager to press the point. We are not in a position to scare those companies away, says Leobardo Gil Torres, the Mayor of Nogales. We are in a crisis, you see. What do we do if these companies leave?

U.S. News & World Report wrote on May 6, 1991:

Many American-owned factories in Mexico are fouling the environment, and their workers aren't prospering.

Advocates of a free trade agreement argue that economic development, while inevitably creating some pollution, frequently spurs prospering nations to significantly improve their environmental enforcement and to enact more stringent workplace rules. But a U.S. News survey reveals:

Indiscriminate dumping or long-term storage of industrial garbage and hazardous wastes is trashing the landscape and poisoning the water and soil.

A slumgullion of chemical laced industrial waste water and raw sewage pumped into canals and rivers is causing widespread gastrointestinal illness, hepatitis, and other long-term health problems—including a suspected increase in mortality from certain cancers.

Massive discharges of toxic fumes have occurred in chemical plants and other factories. In the Matamoros-Reynosa region alone, seven major accidents since 1986 have sent more than 350 people to the hospitals and forced thousands to flee their homes.

Maquiladora employees—most of them women, who sometimes start work as young as 13 years old—are exposed to toxic substances and other workplace health hazards without being given safety instructions or basic protection like masks and gloves. There is also evidence of severe birth defects suffered by infants born to workers.

We also received testimony from many environmental organizations. I want to note that all of these groups are not necessarily opposed to the development of a free trade agreement. But like myself, they are concerned that a fast track approach will not adequately address the environmental concerns.

The national toxics campaign presented the results of a recent survey they conducted in the border areas. I cannot present all of their findings, but let me quote from some of their testimony:

[The researchers] found contamination that were up to one thousand times higher than U.S. and Mexican standards. They found seriously contaminated effluent coming from plants operated by the large U.S. companies—including General Motors. Testing of the G.M. facility in Matamoros showed nearly three million parts per billion of xylene solvent was being dumped into

wastewater coming from the plant—over 6 thousand times above U.S. drinking water standards.

The xylene was pouring into an open canal that flowed through an impoverished Matamoros neighborhood. Xylene can cause lung, liver, kidney and brain damage. The same plant was discharging 430 ppm of ethyl benzene, 56 ppm of acetone, 41 ppm of methylene chloride and 5.7 ppm of benzene. The EPA's cumulative permissible limit for all toxic organic chemicals discharged from industrial plants like G.M. is 2.13 ppm, and some state standards are even lower.

Let me conclude my remarks on environmental hazards by discussing my visit to Mexico. I do believe that President Salinas is making great strides toward improving environmental regulation.

However, I would like my colleagues to keep the following facts in mind. First, a free trade agreement must stand or fall on the words in the agreement, not the commitment of a particular administration. We all remember how environmental regulation changed when Anne Gorsuch Burford took over EPA in 1981.

Second, the magnitude of the environmental problems in Mexico are immense. According to estimates by our own Government, the cleanup costs of the border environment in Mexico already amount to $9 billion. We cannot expect the Mexican Government to easily solve this problem.

One suggestion made by those in the environmental community, such as the environmental defense fund would require businesses that profit from the free trade agreement to invest a portion of their earnings in safeguarding the environment and public health. This is an excellent recommendation, but it will be up to Congress to make sure the administration negotiates an agreement with such a provision.

So, what are the pitfalls a free trade agreement with Mexico poses for the United States? Some say it is jobs; others say the environment; and still others say food safety. Does this mean that we should not be negotiating a free trade agreement with Mexico? The answer to that question is, "No," as I said at the beginning of this statement.

It is in our interest, as well as Mexico's, to improve our economic relations. But, our Nation's health, food safety, environmental and workplace safety policies are at stake in these trade negotiations, not just tariffs and quotas. If we in the Congress are to do our job right, we must ensure that a free trade agreement with Mexico avoids the pitfalls we all know are there.

Congress, therefore, must be involved in every aspect of the negotiations, and in constant consultation with our negotiators. The subcommittee will continue to hold hearings on the important issues involved in a Mexico agreement, and I, as an official trade advisor for the Congress, will try to make sure Members are informed of how the major issues are being addressed.

As we learned in our hearings, there can be good and bad agreements for our workers in the United States. A bad agreement could cost thousands of jobs, and depress the wages of thousands of other workers.

The Congress has spent many days, months, and years in writing laws to protect our environment, our food inspection, and our public health and safety. All of these laws could be changed by a free trade agreement.

If we want to avoid this danger, we must not abdicate our legislative and oversight responsibilities. Having voted on fast track authority, the job for the Congress is not over. In fact, it is just beginning. Committees of appropriate jurisdiction must continue to conduct extensive oversight to ensure essential American interests are not threatened. That is certainly my intent.

□ 1220

ENVIRONMENTAL PROBLEMS IN THE PERSIAN GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. McCLOSKEY] is recognized for 60 minutes.

Mr. McCLOSKEY. Mr. Speaker, as raging oil fires continue to smother Kuwait and damage the entire gulf region, both the Bush administration and the Kuwaiti regime continue to treat this megadisaster like a routine fire at the local garbage dump.

If we can rally the forces of freedom worldwide to expunge Saddam Hussein, why are we not rallying all possible efforts to resolve the eminently foreseeable oil well disaster that already has brought major and longstanding damage to the gulf environment and its people?

It serves no legitimate purpose to drag our feet or downplay this disaster because of any impact on public opinion as to the war. The war is over; our challenge is to restore peace and security in the broadest sense.

The State Department has taken a hands-off approach when it comes to cleaning up the gulf region. There persists a laissez faire attitude toward extinguishing the fires and cleaning up the oil slicks.

"I always call it a catastrophe, not a problem," said Dr. Ali Khuraibet of the Kuwaiti environmental action team, who was recently quoted in a New York Times article on the situation in Kuwait: "If it is just a problem we would be able to know its magnitude. But at this point we do not even know its scale and magnitude," Dr. Khuraibet continued. He also sharply criticized EPA Administrator William K. Reilly for seeming to minimize the health effects of the continuing smoke on a recent visit to Kuwait.

We need an all-out effort to complete a comprehensive inventory of the environmental damage to the area, upon which a reliable assessment of the risk to human health can be based. Although health experts downplay the danger these fires pose, could not the blackened lungs of recently slaughtered goats and sheep in the region be a harbinger of human problems to come?

The United States is standing back, letting the Emir handle the situation. As a result, the problem is not being viewed or addressed as the appalling regional environmental crisis which it truly is but rather as an expensive business problem for the Oil Company of Kuwait.

In fairness to the Emir, the Kuwaiti oil clean up, as slow as it is, is a more laudable effort than their wretched attempts at postwar justice.

While some progress has been made by courageous oil field workers, there are still approximately 500 wellheads burning. On June 11, 1991, oil well firefighting expert Red Adair appeared before the Senate Gulf Pollution Task Force. He said that despite the recent progress, those fires which have been extinguished so far are the easiest ones. The hard work lies ahead. He said the current effort to fight the fires is inadequate. At the current pace, it will take 4 or 5 years to do the job. He characterized the current level of commitment by the Kuwaitis to extinguishing the fires and cleanup of the area as a "Mickey Mouse" effort.

Mr. Adair testified he needs cranes, bulldozers, and more water. He needs assistance from the military in ridding the area of the mines left behind by the Iraqis. He also needs medical support and would like to have a team of burn specialists on standby.

And Mr. Adair needs the cooperation of the Kuwaiti Government and Kuwaiti customs officials. What purpose under heaven does it serve for the Kuwaitis to interfere with medical supplies for those risking their lives to fight the fires raging there. Yet, Mr. Adair has stated that customs officers there recently ruined several hundred thousand dollars of medical supplies he had shipped in for burn treatment. The supplies where ruined due to exposure to the air after Kuwaiti customs officials insisted that the materials be opened for inspection. With Mr. Adair and his courageous coworkers risking their lives, surely the Kuwaitis could be more cooperative.

In late April, I toured the gulf area and witnessed the horrifying spectacle of the massive fires raging in the oil fields. We are all familiar with the reports of a smoke heavy enough to block out the Sun, and of soot-blackened cattle wandering past pools of oil in a surreal landscape. We have all heard the reports about black rain as far away as Turkey and the Himalayas.

"In effect, Kuwait is being painted black," said Dr. Larry Radke, Director of the research aviation facility at the National Center for Atmospheric Research. The Kuwaiti desert is being covered with oil and soot. "The ultimate effect," he said, "will be that walking in the blackened desert will be like walking on asphalt."

The Washington Post reported yesterday that the administration does not view the situation there as a threat to the global climate. The truth is we don't know what the future will bring in this area but there is a definite threat to regional health, environment, and water tables. Even if this doesn't prove global, we still need to escalate our efforts to address very real regional problems.

It is currently reported that up to 6,000 barrels of oil are still leaking into the Persian Gulf every day. Although more than 1.5 million barrels of oil have been recovered from the gulf, the most recent estimates of the size of the spill is 6 million barrels.

The remaining 500 or so oil well fires in Kuwait are incinerating as much as 5 million barrels of oil per day—enough to meet almost one-third of the daily petroleum needs of the entire United States. Again, in the article which appeared in yesterday's Washington Post, the administration reported that the fires were only burning 3 million barrels of oil a day, rather than 5 million barrels.

The administration continues to assure us that things are not as bad as we expected. Even at a 3-million-barrel-a-day pace, the fires could consume a billion barrels of oil in 11 months. Our current goal is to fill the oil stockpile in our strategic petroleum reserve to that same 1 billion barrel level. However, this goal has eluded us because we cannot afford to buy the additional 400 million barrels we still need. Meanwhile, the Kuwaiti oil fires could consume that much needed 400 million barrels in less than 5 months.

The administration's scientific task force has said that smoke from the oil fires has not risen as high into the atmosphere as was originally predicted. This is the basis for the pronouncement that the situation is not as bad as was expected and that it is, therefore, not a global problem. The task force has also expressed the view that the smoke poses no immediate health threat to those in the area.

How can such a benign assessment of the situation be made when, as was also reported in yesterday's Washington Post story, there has not yet been any comprehensive listing of the contents of the smoke, the toxic hydrocarbon content of which remains unquantified?

According to the Post story, the most recent group of American scientists to tour the area were not at all interested in the ecological impacts of the war. Rather, they were preoccupied with how the behavior of the particles and gases in the smoke might differ from what they had predicted. These scientists were more focused on the educational aspects of the fires. This may be of great long range scientific importance, but for the time being, it tells us nothing about immediate risk.

In testimony before the House Committee on Armed Services on June 12, Gen. Norman Schwarzkopf stated that the Pentagon is very concerned about the matter. According to the general, we have more than 20 separate agencies reviewing the situation. Unfortunately he did not provide any specific estimate of the risk to our troops.

The single most important factor to influence any reaction, or lack of reaction to, the ongoing environmental disaster in the gulf is the lack of consistency in the reports coming from the region. The administration is downplaying the situation. Others in the scientific community have expressed serious concerns about the lack of actual data on which an assessment could be made.

Prior to the war, there was a wide range of predictions about the possible environmental consequences of a war. Some environmentalists predicted very serious global consequences similar to the nuclear winter scenarios which first surfaced a few years ago. Once the war began, making a full assessment of the environmental havoc being wrought by the Iraqis was deemed impossible—and understandably so—because of the dangers posed by combat.

When the Iraqis began to retreat from Kuwait they set fire to the oil fields as they went. The coalition troops and Western news media were then again able to supply firsthand reports about the extent of the oil spills in the gulf and of the Ahmadi oil fires. The lack of accurate assessments of the environmental crisis were attributed to the great confusion and chaos in Kuwait and the vast destruction of infrastructure and equipment. Assessment teams would have nowhere to stay, nothing to eat, and no means of transportation. That too was understandable.

However, even after the logistical situation began to stabilize somewhat, the reports by the media regarding the extent of the fires and the potential damage from them could be fairly characterized as schizophrenic.

For example, it was reported that the Ahmadi oil fires are the "worst environmental disaster in history." I don't think anyone has seriously disputed this. In the same story, it was said that the Kuwaitis "have the situation under control." Yet, sometimes the same news stories with this information would contain quotes from a ranking official of the Kuwait Oil Co. claiming that the fires were "beyond the capacity of Kuwait, administratively, technically, and financially." Unfortunately, the entire situation still seems beyond the capacity of Kuwait as well as are numerous other requirements of public responsibilities.

It was reported that firefighters lacked the water necessary to extinguish the fires and that extinguishing them would be a challenge of epic proportion. Yet it is also reported that the Kuwaitis had contracted three teams of Houston-based firefighters who plan to work for 30 days and then take 30 days off. Now, more than 3 months have passed since the end of conflict. The first comprehensive professional assessment of the situation done by a task force of American health and environmental experts was completed 2 months ago. And still—if one only reads between the lines—the reports from the regions are replete with confusion.

Each report on the situation is loaded with caveats about pending scenarious which could still arise. On June 10, Environmental Protection Agency Administrator, William Reilly, reported to the Senate Committee on Environment and Public Works' gulf pollution task force that, "We do not see the kind of acute effects that we had feared." However, Mr. Reilly also noted in the same story. That, "If Hell had a national park, it would be those oil fires."

While the administration was giving its latest, and most upbeat assessment of the situation earlier this week, scientists from the environmental community were talking about, and showing videos of 1,000-foot fissures of flame opening up in the desert, and of lakes—not pools, but lakes of oil—20 feet deep and hundreds of feet across.

The environmentalists speak of rivers of oil running across the desert. They hold out the specter of, not just wellhead fires, but burning lakes of oil. Such events have already, in fact, begun. Such oil lake fires would likely produce much more smoke than the well fires do. A major pending question is what will happen to air quality in the area next month, when the strong desert winds currently dispersing the smoky cloud die down and the full effects of the summer desert heat and the associated temperature inversions begin to predominate?

The lack of clear and accurate information regarding the extent of the damage from the oil fires is disturbing enough—but the seeming lack of urgency to move forward to clean up the area is beyond comprehension.

I have been critical of the administration, which, in the past, has maintained that it could not provide assistance to the Kuwaitis unless they requested it. I had suggested that we should "not await a formal request from the Emir—even—if he does get back to Kuwait City." Instead, "We should offer all the manpower and

technical assistance at our disposal immediately and initiate international cooperative efforts within the region and at the United Nations to mitigate the damage."

Meanwhile, the administration has made a less than concerted effort to help resolve the situation. Yes, EPA Administrator Reilly has toured the area. The Department of Defense has provided assistance in airlifting some necessary firefighting equipment to the area. Approximately 20 C5-A cargo flights have been made to Kuwait for that purpose. Surely, we should be acting more swiftly to assist in mitigating the vast environmental damage and likely health dangers in the area.

The continuing impact of the ecological terrorism of Saddam Hussein in the Persian Gulf is a major environmental disaster. It is a matter of justifiable concern to any person interested in the health of the planet.

I urge my colleagues in the House join with me to press the administration and the State Department to become more active in two areas. The State Department must continue to push forward with efforts to finally obtain a full and consistent overall assessment of the extent of the threat posed by the oilspills and fires.

The administration should offer to work with and push Kuwait for a massive coordinated effort to solve these serious regional problems as quickly as possible. Saddam Hussein's legacy of environmental destruction in that region of the world must be seen as much more than just an expensive business problem for the Kuwait Oil Co.

Ms. PELOSI. Mr. Speaker, the environmental consequences of the war were predicted well in advance of the first shot fired and many of the statistics have now, sadly, come to life in the largest oil disaster in history.

The battle is not over and we are losing the war to save the gulf environment. The extent and longevity of the environmental damage that has been inflicted on the gulf region will take years to determine. We must now mobilize our efforts to mend the environment with a response as swift and aggressive as our drive to succeed in war.

On April 19, 60 Members of Congress joined me in sending a letter to the President urging his swift action to develop an international plan for addressing the environmental damage to the gulf region, in accordance with provisions of the dire emergency supplemental. The 60-day deadline for response has passed and we have no plan from the President.

I did receive a response from William Reilly, Administrator for the Environmental Protection Agency [EPA]. His letter provides an overview of various U.S. and international agency efforts to respond to the gulf oil fires and spills. The letter speaks generally of assessment, but does not mention a plan of action for responding to this environmental crisis.

It is clear, even to the naked eye, that a serious environmental crisis is at hand and yet assessments continue in lieu of decisive action.

Public Law 102-27 specifically requests a plan of action from the President to create "an international framework agreement to (1) provide for environmental monitoring, assessment, remediation and restoration in the Persian Gulf region of effects of the recent war; and (2) provide for the payment by the host country, of appropriate Federal agencies utilized to establish or implement this agreement."

Our letter to the President stressed the importance of such an international agreement and requested that the President initiate steps without delay to ensure that every possible measure was taken by the United States to restore the gulf environment.

If we can mobilize the United States Army Corps of Engineers to help rebuild Kuwait's infrastructure, it follows that we should also be ready to mobilize the Environmental Protection Agency to take a leadership role in the international community to restore the Persian Gulf environment.

The question remains: What is being done specifically to respond to the provisions of Public Law 102-27 "To seek the establishment of an international framework agreement"?

An independent coalition of United States scientists recently concluded an observational study of the Persian Gulf environment. The film that documents their trip, which was shown at a congressional briefing sponsored by Congressman GEORGE MILLER and me on June 24, shows an environmental situation much worse than has been reported by Government scientists.

The film showed lakes of oil hundreds of feet across and up to 20 feet deep; hundreds of oil wells still burning, with no sign of attempts to stop them; numerous estuaries destroyed or threatened; and thick black smoke plumes as high as 16,000 feet—3 miles high. There was little evidence that the efforts currently being employed to combat the environmental damage are enough to meet the challenge of this disaster.

William Reilly, upon returning from his visit to the gulf region, commented that the health risks from the Kuwait oil fires was lower than expected. EPA's data recorded smoke plumes at between 8,000 to 12,000 feet above the Earth, indicating that the black clouds would not travel very far. How do you reconcile the conflicting data? Are we not concerned because we view this as a regional problem?

There were early reports of smoke particles detected at the National Oceanic and Atmospheric Agency's [NOAA] air quality reading station in Hawaii. Black snow has been detected in the Himalayas and black soot northeast of Tokyo.

Instead of initiating a response to this crisis, the administration has censored information. On January 25, the Department of Energy [DOE] issued a memorandum to control information about the war's environmental effects, advising employees:

The extent of that we are authorized to say about environmental impacts of fires/oil spills in the Middle East follows: Most independent studies and experts suggest that the catastrophic predictions in some recent news reports are exaggerated. We are currently reviewing the matter, but these predictions remain speculative and do not warrant any further comment at this time."

Despite DOE assertions, a government scientist now claims, "This is the most intense burning source, probably, in the history of the world."

A Kuwaiti scientist with the institute for scientific research was critical of his own government as well as the allies on their slow response to the health urgency of the oil fires in stating, "They are concerned. They should be scared."

How do we know that the health risks are less than feared—feared by whom? The people who see daylight turn to midnight? The people who are inhaling smoke particulates into their lungs?

There are approximately 500 oil wells on fire today. Red Adair, the famed Texas firefighter, stated recently that 4 to 5 years to cap the oil fires is an overoptimistic estimate. What will the health effects be after 4 to 5 years of oil smoke permeating the air? It takes as many as 600 firefighters to control a large well and, already, 6 have died trying.

At this point, no one really knows what is in the smoke and there is virtually no health data collection to document related illnesses. The sulfur dioxide emitted by the fires, 40,000 tons a day, is equal to the combined daily emissions of France, Germany, and Great Britain. The U.N. World Meteorological Organization estimates that the oil fires could emit double the amount of fine particles now in the world's atmosphere.

The aerial film I mentioned earlier also shows part of the 335 miles of Kuwaiti and Saudi Arabian beaches and coastal marshes clogged with oil. William Reilly stated after his recent trip: "We know that the spill is some 25 times greater than the Alaskan *Valdez* oil spill in Prince William Sound two years age."

In the Alaska oilspill cleanup effort, Exxon spent $2 billion. So far, the Saudi Arabian Government has spent $150 million for oilspill cleanup in the gulf.

I had the opportunity to question our Ambassador to the United Nations, Thomas Pickering, and Assistant Secretary of State for International Organizations, John Bolton, concerning the role of the United States to assist in the international effort to restore the gulf environment at a hearing on April 23. During our exchange, I asked:

Does the State Department support funding for the United Nations environmental programme's special fund for gulf environment restoration?

They responded:

We are currently working to see if ten four-wheel drive vehicles, which are now in Kuwait, could be loaned to UNEP to assist its task force's damage assessment survey. We do not plan any cash contribution.

So far, only Japan and Norway have contributed to this fund.

Dr. Noel Brown, regional director for UNEP in New York stated in a recent interview:

The world community was extremely enthusiastic, well organized and efficient in mobilizing the forces of destruction—so efficient that it came in under budget. Many contributors are now complaining that they want a refund. Isn't it extraordinary that we

are bickering about price? Why not put the surpluses into a fund for the gulf's environmental restoration, which is so desperately needed?

The human toll of war continues. It is predicted that 170,000 Iraqi children will die, almost double the allied estimates of Iraqi dead, as a result of damage to sanitation and medical facilities.

We are faced with a human disaster, coupled with unprecedented and calculated environmental destruction. Unfortunately, we were at war with someone who had no regard for human life or the environment. And yet, headlines across the country warned us of the consequences of ecoterrorism. More difficult to believe is the lack of advance planning required to address this crisis and, now that we are fullfaced with the crisis, we remain without a plan of action to address this serious situation.

Dr. Noel Brown also stated:

Environmentalism must become an integral part of all future U.N. decisions, otherwise we're hypocrites. We know very well what weapons of mass destruction do. Why should a decision authorizing the use of force not entail environmental considerations. Is the U.N. in the destruction business? Are there other ways to ensure that its principles are observed? We are answerable to the earth and to our consciences.

The challenges to international peace, which have been highlighted by the tragedy in the Persian Gulf, require imaginative solutions. We must respond creatively to a world of many nations and cultures connected by instant communication and interlocking economies.

We must mobilize our efforts to mend the environment with a response as swift and aggressive as our drive to succeed in war. The environment must never again be used as a tool of war. Our efforts to achieve peace are motivated by a concern for human welfare and the preservation of our world. The same sense of humanity must guide us to protect the foundation of human life—our natural environment.

We must continue our leadership and restore the people and environment of the gulf region. We must also lead in the creation of a stronger convention for the protection of the environment in war.

If we are to avoid the destruction of war, we must perfect the art of peace. This is a challenge for all of us—together.

□ 1230

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore [Mr. MAZZOLI]. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CARRYING A TORCH FOR THE COLD WAR

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I will not ask for 5 days for other Members, if they want to say anything, they can get their own time.

I have been talking, Mr. Speaker, for the last couple of days about what we do in the post cold war period. I think we, as an institution, the political parties, the American political structure is reacting insufficiently to this enormous change.

We have lived for 45 years with the cold war. We lived for 45 years in a situation in which there was a very real threat to the liberties and independence of other nations from a militant, hostile, aggressive Communist bloc.

For a variety of reasons, including our determination and the determination of our allies, that bloc has crumbled. The Soviet Union is now by itself without any allies, and it is in fact internally beset.

We are not at a point where we can disarm. We are at a point where the demands on our resources from the standpoint of national security has substantially diminished; one, because the threat embodied by the Soviet Union and the People's Republic of China and other allied nations has diminished substantially. It has not disappeared. It has diminished.

Second, our allies who began this period of the cold war in the late 1940's as impoverished, weak and defenseless, are today, England, France, Japan, South Korea, Germany, Denmark, the Netherlands, they are today prosperous, democratic, of which we should all be proud, they and us, and militarily capable of meeting any threat to them. That ought to be made very clear.

Given the breakup of the Soviet empire, very few of our allies are realistically today facing any serious threat with which they are not themselves capable of dealing. That has not just become an opportunity for America, Mr. Speaker. It has become, and I wish it had not, it has become an opportunity for the Democratic Party. And it has become an opportunity for the Democratic Party because of the refusal of George Bush and the Republican Party to factor the end of the cold war into serious policy making.

George Bush is carrying a torch for the cold war. America having won it, America, having demolished with our allies over the years, perhaps demolish is the wrong word, but eroded to the point of nothingness the threat that was presented in Europe, in Asia, the President wants to go on essentially as if it was still there.

On the other side there is an emerging consensus among Democrats. We have seen it in votes on the floor and we will see more of it, which says, we are now entitled to say to the rest of the world, together we have succeeded in making this world safer. We are wealthier, the threat is less.

We no longer need to spend 6 percent of our gross national product on the military while friends and allies spend 1 percent, 2 percent and 3 percent. We no longer need to divert a substantial part of the resources of this country, our scarce capital, our best scientists, our most skillful technologists, our best specialists at developing products, our best factories, we do not have to devote quite as much of that, two to six times what our economically equivalent allies have done, to the military.

□ 1240

We can be the strongest Nation in the world. We can defend every vital American interest with a great margin of safety, and we can extend a protective arm to those weak nations that do need help from us for one-half of what we now spend on the military.

The President objects to reducing the military. He takes credits, paradoxically, for those traditions that make it possible, and we can debate who does or does not get the credit, but President Bush wants to get the credit for winning the cold war. He just does not want America to get the actual benefit of it having been won.

The Democrat approach is evolving, but you already see strong elements of it, and you can predict within a very few months it will be clear. We will say take the victory dividend, and that is about $150 billion a year, and now we complain about the need to spend money to pay off depositors in the savings and loans, and that is obviously an anguishing thing that we have to spend that money. It is anguishing that irresponsible operators in the private sector, in the savings and loan industry, were allowed to abuse the public trust the way they were. We are working hard to prevent a repetition.

Let us have some perspective. The actual cash outlay, not the interest we have to pay. But that is true of any Government expenditure, the actual cash outlays on the savings and loans will be not much more than 1 year's savings on the military if we do it right. If we would stop protecting Denmark and France against a Polish-Czechoslovakian invasion, if we would tell the Japanese that we do not subsidize them anymore, and they can pay for their own, if we were to tell the South Koreans that they are big enough now to need only sea and air

power from America and not tens of thousands of ground troops to hold off the North Koreans, and if we were rational about the nuclear deterrent, and still had a terrific nuclear deterrent, we would save every year roughly the equivalent of a savings and loan bailout.

The Democratic approach is to make those savings. I will say it is not the entire Democratic approach now, but it is the approach of the majority of us if you look at the votes, and it will, I think, soon be the approach of all of us, because we recognize that we can protect American security fully with this lower amount. It is a victory dividend. America won the cold war. America demolished the nation of Iraq when it engaged in aggression and we had to go to the aid of a smaller and weaker nation. We have a victory dividend.

We have the benefit of our years of spending on the military, more, I think, than we had to. This does not mean we spend intelligently in the miltiary in the 1980's. We overspent, but the facts are that the spending we done, and we can now cut it in half.

I think the Democratic approach will take two basic stands; one, we can use perhaps half of this savings to reduce the budget deficit, to aid America in the civilian competition.

As I said before, we have been in two competitions, a military competition against the Russians which we have won overwhelmingly, and a civilian competition against everybody else. Only the United States had the capacity to do both.

Having won decisively in the military area, the sensible thing to do is to take some of those resources and put them into the civilian area, and I am not one who believes that we need an elaborate Government plan for converting resources.

I am in favor of provisions to help to compensate workers who have toiled long and hard for this Nation's national security, who have been very good workers and who find themselves unemployed not because of any sloth, not because of any lack on the part, but because we do not need them anymore, and it is right that we should not spend that tax money if we do not need to.

It is also right that we should make sure that individuals caught in that transition are dealth with fairly.

Apparently the United States is contemplating providing money to help the Soviet Union with the transition from a heavily militarized economy to a civilian one. The only place the administration does not want to spend any money along those lines is within the United States, and that is a disparity that cannot be allowed to stay.

So that Democrats will be for, I hope, a substantial reducation without an elaborate mechanism for planning. I believe that free enteprise system will work well. I believe that Boeing, if its does not get the B-2, which it should not because that is a waste of money, will find a way to use resources to further its worldwide successful business that is expanding of selling civilian airframes.

I think the America free enteprise system will benefit, and for people who wonder about the economic effects, I think it is very clear that if the President were to announce tomorrow that having consulted with his advisers he now believes America can, on a steady, planned basis, reduce our military expenditure, planned as to how we reduce it, phasing that in, and that 3 or 4 years from now we can afford to be spending half of what we are now spending, no doubts the stock market would go wild with glee. There would be a enormous recognition by the financial community that this was terrific news. The bond market, the stock market predictions for the future of America, it would be very, very bullish, and that is part of what we, as Democrats, should want to do, reduce military spending so that we can provide for our civilian economy more resources.

Let us have the brilliance, the skill, the technological wizardry that we saw on display in Iraq, and let us put that into increasingly civilian goods. If the people who are able to make the kinds of weapons, the kinds of information-gathering devices, the kinds of protective devices, if all of that skill, intelligence, and ingenuity that went into these weapons were shared, not diminished totally, but shared with the civilian sector, then I believe the American reputation in the world for high-quality products would go up substantially.

The society that gave the world the weapons on display in Iraq is a society well able to give the world lessons in how to produce civilian goods. We have held ourselves back, because we have voluntarily spent so much defending our allies, giving our allies the advantage of being able to outspend us in the civilian area in technology and in research, because we voluntarily took up their defense.

As that ends, you will see the unlocking of America's full productive capacity in the civilian area in a way that I am confident will bear significant fruit.

With the rest of that money, with the other half of that $150 billion, we can address the problems of American society. If you live in any country in NATO except the United States and you are 68 years old and you become ill, you have to worry about your health but you do not have to worry about impoverishment. You do not have to worry that what you saved all your life in the hopes of passing it on to your children and grandchildren will be wiped out. You do not have to worry that if you live long enough, while being ill, that you will be reduced to a state of poverty, because in all of the other NATO countries, to my understanding, there are in place health-insurance systems that say you are older, you worked hard all your life, you are wearing out, and it is going to happen to all of us, and we are going to do what we can for you in terms of health, but we are going to hold you harmless financially. We will not say that the penalty for becoming the victim of a long-term illness when you are old is impoverishment. Only in America, Mr. Speaker.

Mr. Speaker, only in this country, of all the NATO countries, at the age of 68 or 70, do you, when you become ill, have to worry as much about your financial health as your physical health. How come? Is it that we, as a society, are somehow less able than Denmark or Belgium or Canada to provide that level of service for ourselves, not this group providing it for that group? For all of us as a society, having that in place, for any of us who need it; why is the United States uniquely, among these Western democracies, unable to provide that? Because we have for 45 years been spending twice as much of our national wealth on the military as those nations initially because they could not afford it, now because of habit, because of inertia, so that today American taxpayers subsidize the Danes and the Belgians and the Dutch and the Luxembourgers and the British and the French and the Italians and the Germans, and we subsidize them so that they can enjoy the kind of medical health insurance that we in America deny ourselves.

If we were simply to say that we will take the money from the victory dividend, the money that society can save by not defending Western Europe against an attack, by not having a B-2 bomber to add to the B-1 bomber, by not having two mobile missiles with no targets of any great worth, if we simply scaled down our military to where if we would suffice to be the strongest nation in the world by far and not five times the strongest nation in the world, we could do health insurance.

We can debate among ourselves how to do it. I support the legislation put forward by my friend, the gentleman from Illinois [Mr. RUSSO], who is doing excellent work here. We have got a broad coalition, and I think that is going to emerge as the preferred vehicle, a single payer. But whatever you want, it is going to take some money, and we have got $75 billion a year which we can spend and still be reducing the dificit and make that available, and if we were to take medical care as a national program, we would, in one instant, free up funds at the State level.

States all over this country are suffering in part because of the burdens of Medicaid. Big cities are suffering because of uncompensated care they pro-

vide to the sickest of the people in our society, the poorest. A national health insurance program would help. The Canadian provinces, the German States, London, Paris, Amsterdam, they are not burdened with these health costs the way our States and cities are.

□ 1250

Americans are picking up their defense tab. By the way, every one of these countries is planning on reducing their defense spending, so we will reduce marginally. They will reduce more than marginally, and the level of subsidy will continue to about what it was.

That is the defining difference between the parties. We will see it more and more. Let me make clear how it is different. We had a budget debate last year.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to my friend from New York [Mr. WEISS] who first called to my attention the incongruity of Americans being willing to spend money to help the military conversion to civilian purposes in the Soviet Union, but not the United States.

Mr. WEISS. I want to commend the gentleman for taking this special order and for his comprehensive comments on where we are as a society and where we should be going, rather than in the direction in which this administration seems intent on taking, which is further down the barrel of economic depression.

The fact is that with no demonstrable need for the kind of weapons systems that are leftovers from the cold war, as the gentleman has pointed out, we intend on spending, in fact, the Russians were still the main threat, when in fact NATO has no Warsaw Pact opposition anymore.

Mr. FRANK of Massachusetts. If the gentleman will allow me to interject, as the gentleman knows, the major dispute now between the former members of the Warsaw Pact and NATO and the former members of the Warsaw Pact want to be in NATO because if they join, what do we need a NATO force for?

Mr. WEISS. Indeed, I especially appreciate the gentleman's comments about economic conversion. It is supremely ironic that we are willing to help the Russians convert away from a military economy, but we are not willing to do that for our own people who are in desperate economic straits at this point.

Further, we in Congress have compounded the problem by entering into an agreement with the administration which, in essence, prohibits the United States from taking savings from the military budget and spending it for domestic purposes.

Mr. FRANK of Massachusetts. The gentleman is correct, but as he knows, only one more year of that. We warned Members this is coming. If they want to continue, as the administration and the Republican side, to say "no" to health care because we have to spend $100 billion a year on NATO, they only have 1 more year of being able to hide behind the budget agreement. After that, they will have to say they would rather put it into 200 troops in Western Europe.

Mr. WEISS. What that agreement has done is to provide an inducement for unnecesary spending for the military, because they cannot use it for domestic purposes with all the talk about cutting back on the deficit. They do not want to do that, so they spend it for the vast, unnecessary, redundant, outmoded weapons systems.

It is just craziness that is going on, and I do not think the American people are going to stand for it. With all the talk about how the recession is going to end last quarter or next quarter, I do not see it happening, and the way that this administration thinks we are getting out of it is by having States and localities cut back on services and increased taxes.

If that is the way to get out of recessions, it is a reversal of change.

Mr. FRANK of Massachusetts. The gentleman makes a point I should have stressed much more strongly.

States in this country are cutting back on services while we continue to keep troops uncompensated in Japan, in the Netherlands, and other wealthy nations.

Let me say, the gentleman makes a good point about the failure to cut the military. Amendments have been debated on this floor offered by many Members. Mr. Speaker, as Members know, if people are interested, they can look in the CONGRESSIONAL RECORD during April and May and see the votes we had on the defense authorization bill, and defense appropriations bill when we moved to cut $8 billion that we did not need in troops overseas, when we moved to cut out the MX missile. I urge, Mr. Speaker, any person interested, to look at the CONGRESSIONAL RECORD if they want to find out whether their Member of Congress thinks we should continue to subsidize NATO, rather than reduce the deficit or begin to accumulate money for health care. They can read it in the RECORD.

Mr. WEISS. If the gentleman will continue to yield, again I just want to thank the gentleman for his comments and for taking this special order, and to again underscore the fact that although the patience of the American people may be long and long suffering, it is not interminable. I think that with the pain that is being felt around the country in urban as well as rural areas, I think that there is a return to the kind of thing that Franklin D. Roosevelt faced in 1933.

I think people are ready to take action for themselves, and I think we ought to get out in front of them.

Mr. FRANK of Massachusetts. I thank the gentleman for his remarks.

I generally feel that on the issues, the people in this Chamber, people in the executive branch are sophisticated and thoughtful. I do not subscribe to the view that somehow when people are in Washington, DC, they think less clearly. I am proud of my colleagues, but on this set of issues I think the average voter is thinking more clearly than a lot of people in Washington.

There is kind of a cultural lag. People have gotten so convenient with terms and arguments of the cold war that they do not want to shuck it off.

Now, the gentleman is right, that this has to change, and I think it is very clear. I am glad he mentioned the budget agreement. There are differences between the parties. They have not been sharpened in the interest of responsible government. We muffled some of that. I think that is the right decision. I commend the leadership for deciding to keep the government functioning. That is important.

Let Members understand the position of the two parties last year in the budget agreement. There were two major differences between the Democrats and the Republicans in the budget agreement. One was whether or not we should have a progressive tax increase, not whether or not there should be a tax increase. Remember, Mr. Speaker, between the parties last year we did not differ as to whether or not taxes should be raised. President Bush began the budget negotiations by acknowledging the need to raise taxes. It turned out that the President's lips on taxes had a lot in common with Milli Vanilli on video: We could not always believe everything we saw.

Then we got to a situation where both sides wanted to raise taxes. Not wanted to, but acknowledged the need to. Then the question was, how do we raise them? The Democratic proposal was a far more progressive one. It would have raised taxes on people at $100,000 and more. The Republicans were less progressive. We got a compromise because control of the government is divided, and we cannot get a solution without compromise.

The other difference between the parties had to do with spending levels. Not overall levels. There was no difference between the two parties last year on who wanted to spend how much, or on whether or not we should raise taxes. The question was given, we are going to raise taxes. Should we raise taxes on wealthier people or middle and lower income people. Democrats wanted to raise taxes on the wealthy, and Republicans the other way. On expenditures, the President wanted to cut medical care, and the Democrats wanted to cut the military. That is the essential difference.

We wrestled with that. The first plan came up and it gave, in the judgment of many Members, too much to the President. So we voted it down. Then we put through this House a Democratic plan. People who want to say that there is no difference between parties, I invite those people to analyze, Mr. Speaker, the first budget plan, which was voted down, and the second budget plan which passed this House with Democratic votes, over the objections of most of the Republicans, because our plan had a more progressive set of taxes, a better set of expenditures. We spent more on medical care than the President wanted; more on Medicare for the elderly, and less on the military.

Would we have been one iota less if we spent less on the military? Of course not. In fact, if anyone wants proof that the Democratic side was the more popular, as well as in my judgment being superior, go back and look at who complained about leaks. An obvious rule, Mr. Speaker, when politicians are doing something quietly, if politicians are trying to work out a disagreement, quietly, the ones who complain about leaks are the ones who know their position is unpopular, because the people who know that position is popular are either doing the leaking or are glad someone else is doing the leaking, because they want someone to know what is up.

The differences that came out in the 1990 budget dispute remain. When we voted on the floor of the House, we voted on burdensharing. Should we cut by $8 billion the amount of money Americans spent in areas of wealthy allies, facing very little threat, such as Western Europe, Japan, and South Korea? They face more of a threat. They would have had a disproportionately smaller share of the cut. We said, Mr. President, cut $8 billion anywhere you want. We suggest to tell the Germans, the Danes, the Belgians, the Japanese, the free ride is over. They can pay for their own military. They can do it themselves, or they can defray our costs, but we will not pick up the tab.

That was voted down. A large majority of Democrats voted for it. Virtually every Republican voted against it. Virtually every Republican said: No, no; you people in Belgium and Norway and all the wonderful people in Austria and Sweden, they are neutral, and the Swiss in particular, you have great chocolates, and you are entitled to a couple hundred thousand troops sitting over there boosting your economy.

□ 1300

We would not think of cutting you back. We said to our friends in Japan, "You have a wonderful society. We think we would like to make a contribution of $5 billion a year." We make a $5 billion a year contribution to the United Fund of Japan Government, because that is what we spend on their defense without them compensating us.

I still have not heard, and I still would like someone to tell me, who is it we are defending Japan against. I do not think it is Russia or China. Maybe the Sri Lankans harbor some resentment that we were not previously aware of, but that is what the position was.

So we have very real differences here. The Democratic position is evolving, but if you look at the budget in 1990, if you look at the defense folks this year and if you look at it next year, I hope, Mr. Speaker, in next year's budget, even though the agreement as my friend from New York still says you cannot break it, some of us are going to bring forward an amendment. And do you know what it is going to say? We do not need 200,000-plus American troops protecting Western Europe against the Communists. We do not need to subsidize Japan by $5 billion.

Let us save $10 billion out of the $100 billion, by then maybe it will only be $70 billion. Let us take $10 billion out of the $70 billion that we will be spending to defend our wealthy allies and bring it home, and let us put five of it into deficit reduction and let us put five of it into important American needs here domestically.

I can predict the administration will act as if this is some terrible thing and most of the people on the Republican side will vote with them, and that will be the issue.

People will see a Democratic Party saying that we want to be the strongest nation in the world, but we do not want to be suckered. We do not want to go to those nations in Europe which are in fact our competitors, albeit friendly competitors, and subsidize them to the cost of the American people.

Now, the question has to be asked, why does the President do this? Why does he insist on spending extra money? And this is the other difference between us. It has to do with what is the basis for America's relations with other nations.

Some of us think that it was obviously important, most of us thought it was important to America to focus on national defense for 45 years against the Soviet Union. Now we think that a realistic look at the world says this. The rest of the world is more likely to do America some damage economically, if we are not sensible, than militarily. We will keep our military forces in being, but we think we have established a degree of breathing room militarily.

On the other hand, we are beset economically. We are not poor. We are not in a disastrous situation, but Americans are not living as well as they should be living. This generation of Americans in their twenties today, they may be the first generation in a long time that on the whole does not live better than their parents. We have Americans today in their twenties and early thirties who cannot buy homes. They were brought up to think that this is the American dream. Well, they cannot get that dream.

What has happened is this. We started this cold war period with an economic superiority that was untouchable, because our society alone survived as an advanced democracy without devastation in World War II. All of our potential competitors were severely damaged by World War II, strained far more than we were.

This great continental industrial democracy came out of World War II thriving, and we had for decades a degree of economic superiority over any potential economic competitor.

The threat back then was military, not economic, and we responded quite well as a society under Harry Truman's leadership. We geared up. We used our economic strength to meet the military threat. Now 45 years later we have done enormously well militarily, but at some significant cost to ourselves economically.

And what are we doing now? We are doing what we did not do in 1945. We are ignoring the area of vulnerability and playing only to our strength.

In 1945 we used our strength economically to build up militarily to meet the military threat. Long after that was a sensible way to divide our resources, we are still doing it, and today this administration still gives a priority internationally to military strength, even when there is no need for it, when we lavish it on people who could afford it on their own and when we lavish on them to defend them against threats that are nonexistent, and this comes painfully and clearly at the expense of our own economy. It is the American economy that is being forced into these contributions that we cannot afford, and it is not just by spending militarily on our allies.

If people think, Mr. Speaker, this is an exaggeration, maybe we should have a contest. People talk about a national lottery. Maybe we should have a national essay contest.

Can anybody explain to us why the United States taxpayers should be borrowing money to subsidize the defense of Japan by $5 billion a year?

And as we all know, it is not just in defense of Japan. It is in defense of America.

What? How is America threatened by what is going to go on in Japan? At least it ought to be joint.

People say, well, we have an interest in Japan. But does Japan have an interest in us?

One thing I want to point out, Mr. Speaker, we are told these are joint interests. If they are joint interests, how

come it is always America doing to others, it is never America being helped by anybody else?

Except, I should have said this earlier, in the Persian Gulf. In the Persian Gulf because of pressure from this Congress, the administration for the first time got help from other nations. There is a model, and I think it worked well. That is what we are talking about. The administration reluctantly was forced by the need to come here to get authorization for the war, to get money for the war, it got the money for mothers. They can do it if we put the pressure on; but this administration's position is that we should continue to spend that money overseas, and they also insist on subordinating America's own legitimate economic interests to national security interests in nonmilitary areas; that is, this administration, and like the Reagan administration before it, believes apparently that America is so economically invulnerable that we whenever we deal with one of our allies or even with one of our sort of enemies, we should put politics first.

Do you know what, Mr. Speaker, they almost always put economics first.

In our dealings with Japan, for years and years the Japanese have deferred to us politically, as long as we deferred to them economically. They will go along with us in approaching the political situation in Kampuchea as long as the Bush and Reagan administration did not push them too hard in other areas economically.

Now, because of congressional pressure, that has happened. Do you know, we passed Super 301, it is called, the Trade Act, which said if other countries are being unfair to us, we will punish them to an equivalent degree.

Do you know what that says? If you hit us, we will hit you back.

The Reagan and Bush administrations have acted as if that made us guilty of assault. How dare we hit people back who hit us first? How belligerent that is. How protectionist.

That is not protectionism. It is self-defense.

And both administrations objected to it. Why? Because in their view, it makes sense for America to take some economic damage if in return we got political support.

When we complain about the troops in NATO, when we complain about an imbalance whereby the People's Republic of China, one of the most oppressive irresponsible governments in the world today, a government that sells arms irresponsibly, that oppresses its own people, they have an enormous and growing balance of trade with the United States. They make a lot of money off trade with the United States, and when we object to that the administration says, just as it says with the extra money in NATO or in Japan, just as it says with other areas, that is the price of leadership. It is the highest price Americans pay today, Mr. Speaker. The price of gasoline, the price of housing, the price of food, the price of clothing, it does not compare in its negative impact on American families to what George Bush calls the price of leadership.

The price of leadership is well over $100 billion a year in tax revenues and additional tens, and maybe hundreds of billions of dollars economically that we cede to other countries.

I am not asking here for protectionism. I am not asking for American nationalism. I am asking for an end to American unilateral economic disarmament, because that is what we have had.

During the 1980's, the Reagan and Bush administrations have overarmed us militarily and unilaterally disarmed us economically, and that is the opportunity for the Democratic Party. I wish it was not there. I wish we did not have those disparities in our policy; but what we are saying is let us scale back our military arms to the point where we have more than we need in the margin of safety, but let us not keep leading with our chin all the time in international economic affairs.

Why do we have most favored nation treatment high on the President's agenda for China? He says, well, you cannot influence a society by breaking off economic relations with them.

The President says we must be engaged with them. If we want to have a constructive influence, we must be engaged with them.

□ 1310

Mr. Speaker, I do not know how the gentlemen to my left are going to handle it, but the only answer to that is, "Huh?"

Because this is an administration that was for sanctions against Nicaragua, sanctions against Cuba, and they now have sanctions against Iraq. But the way to deal with China, a brutal and repressive Communist regime, sanctions all of a sudden do not make sense, "The way to deal with them is to engage them, to be constructive."

Well, Mr. Speaker, we do not know about the teacher who was asked whether he thought the world was round or flat. He said he needed the job, and he said, "I could teach it round or I could teach it flat."

But not on the same day, at the same time, to the same people.

The administration cannot tell us on one hand that economic sanctions are the way we are going to break the back of Cuba, or Iraq, or Nicaragua, but on the other hand that it is irrelevant to the situation in China, that sanctions will be counterproductive.

Of course, they inherited that inconsistency from Ronald Reagan. He thought sanctions would work over here, but sanctions against South Africa he was opposed to.

The fact is that we have a right as a Nation to decide where we will extend most favored nation treatment. There is no economic reason to do that with China. There is no short-term foreign policy reason. They have been uncooperative in arms control events.

From the standpoint of human rights, it is a very bad joke to talk about the Chinese. We even have one of the greatest inconsistencies in the U.N. family planning program. George Bush says that we should not give any money to the U.N. family planning program to help the poorest nations in the world deal with overpopulation, which can degrade the standard of living. Why? Because China has an abortion policy which is coercive.

So, because China gets a small amount of money from the U.N. family planning program, George Bush has cut up the whole program. On the other hand, we give China, which is a small beneficiary of the program over here, a huge benefit in most favored nation treatment. If you ask the Chinese Government which would you rather have, most favored nation treatment or U.N. family planning assistance, that would be a very easy question for them to answer. The orders of magnitude are not even remotely the same.

What kind of policy purports to say we cannot give money to the U.N. family planning program, this worldwide program, because it might help China some in their coercive abortion program, but the President is prepared to veto congressional legislation if we say we are not giving China most favored nation treatment until it deals with human rights?

"Mr. President," I think it is fair to say, Mr. Speaker, "If you are serious about your objection to China's abortion policy, how can you give most favored nation treatment without making that a condition?" I assume the President's supporters are going to make that a condition. If not, then I think we are back to where, unfortunately, I think we are—which is not one of the best sentences anybody ever said. And that is that the President transcends such mundane considerations as American economic interests, jobs in this country, productivity in this country, he transcends human rights, he even transcends his own concern about coercive abortion because what counts for him is the price of leadership.

Mr. Speaker, I have a hard time discussing this without falling into caricature. I believe what they say. They say, "Well, it is America's role in the world. It is the price of leadership."

Boy, is the rest of the world happy to let us be the leader?

Apparently the theory is that if America gives in on most economic disputes, if America is not very aggres-

sive defending its own trade interests except when the political heat gets overwhelming, can anyone think of a trade issue where this administration or the Reagan administration actively took the lead in defending Americans against unfair treatment, in which Congress was not putting the pressure on, in which they led themselves, as they do in other foreign policy areas? The administration's position is that, "Well, in order to continue to be the leader of the free world, give in economically."

We have bought that leadership. We have brought the acquiescence of other nations. There is no serious mutuality here. They will defer to us some politically as long as we pay them economically. And that is the second part of the opportunity for the Democratic Party, and again I wish it was one that did not exist.

On the one hand, the opportunity to save tax dollars in the amount, pretty soon, of $100 billion a year, put it into the deficit, put it into American productivity, and put it into medical care for our own people, which gives enormous benefits to our society, it frees up that money to the States and cities.

On the other hand, when it comes to our economic interest, we can say that America is no longer going to apologize for being as concerned about our legitimate needs as any other country.

Let me say, Mr. Speaker, this does not mean that we cut off foreign assistance. In fact, I think it is gravely embarrassing that we give so little to help with the hunger in sub-Saharan Africa. I disagree with this administration's reluctance to help more in Latin America with debt. Secretary Brady made a start, but it was too pale a start, in my judgment.

In fact, if we were to take 10 percent of what we are now spending in NATO on military aid to nations that do not need it and gave that economic aid to poor nations that do need it, everything would be better off.

We could certainly do a great deal more in that regard. But that is not this administration's way. These are people with a nostalgia for the cold war; they will not let it loose. They want to continue to act as if things were the way they used to be.

I have asked members of this administration and others, why must we keep 200,000 troops in Europe? Because, they say, of uncertainty. They did not get put there because of uncertainty, they got put there because of the Russian threat. What are we being told—that the wealthy nations of Germany, France, England, and Denmark do not like to live with uncertainty? Well, let them get over it, Mr. Speaker. This is an uncertain world. Why is it the obligation of the American taxpayer to subsidize all these people because they can not live with uncertainty? What are the American troops, the functional equivalent of a nightlight for our former allies in NATO?

We were there when they needed us. Why have they not been there when we need them? Are we obligated to stay there when they do not need us? Because that is what we were told over and over again, "we do not want to offend our allies." How come nobody ever worries about offending us?

What right have they got to be offended when we say American taxpayers do not think they should subsidize Japan any more for $5 billion? The American people do not understand why they should pay to keep troops in German when the Germans pay to keep Russian troops in Germany. The American people do not understand why we still need all that many in NATO.

So I think this is evolving, to summarize: The cold war has ended. It is increasingly clear that America can maintain its position as the strongest Nation in the world with a considerable margin of safety at about half of what we now spend. It will take us a couple of years to get there.

We have young people in the armed services who joined, who volunteered to defend their country and they are entitled to absolutely scrupulous honoring of their commitments. We owe these people 100 percent of what we promised them.

But the armed services take a lot just to stay even. Attrition begins to buy you a lot. Sensible weapons production can buy you a lot in savings. Fundamentally saying to the rest of the world, and I said in summary but let me just rephrase one point: The problem with this administration's mindset is that Iraq threatens Kuwait, invades Kuwait, and their view is it is America's obligation to go to the rescue and maybe if we are lucky other people will help.

We have to develop a new mindset, say to our wealthy and strong allies, "Look, we are prepared to work with you jointly, but forget this notion that somehow we owe you to be the first ones in and the only ones in and maybe you will do us a favor of helping us."

As long as people have that impression and they get it from this administration, we will be in trouble.

Why does the administration want to give them that impression? That is the price of leadership. That is what we pay so we can call ourselves the leader.

Well, I want to be the leader, I want to be the leader in standing up for human rights, I want to be the leader in providing a good standard of living for the country, I want to be the leader in providing the quality of goods around the world where people would say, "Oh, made in America? Terrific." They say that now about our weapons. There is no inherent reason whatsoever why they cannot say that about our consumer goods as well.

That is the difference, as I said, between the parties.

For reasons I do not fully understand, but the Reagan administration and the Bush administration and the overwhelming majority of the Republicans in both Houses believe that we should make some marginal drops in spending on the military, although not all of them want that. Some of them want to keep more. But on the whole, they want to keep spending in the 1990's and into the next century at roughly the levels we were spending before, maybe with some marginal drops. And they want to keep in foreign policy, and some will see this when the vote comes on most favored nation for China and other areas, they want to keep deferring to other nations. They do not want America to be at the bargaining tables equally. They basically are saying, "We will defer to them a little bit because we are the leader of the free world and this is our responsibility." I think on the Democratic side you are already seeing, you saw it in the budget negotiations last year, and you will see it this year, and you will see it full-blown next year, and I think you will see it in the Presidential campaign, a Democratic position that says, "No, we do not owe wealthy nations the degree of subsidy of their economies by providing them with an excuse to cut their militaries very low while we keep ours unnecessarily high." We want to spend as much as we need to defend ourselves and defend those in need. We want to free up American resources. We are talking about at least $150 billion a year in current dollars because that also includes not just the money in the military budget but money in the intelligence budget, money in the atomic weapons part of the energy budget. We are talking about a very significant amount of money.

What we are saying is at the margins, if we put that money into civilian production we can give ourselves the better quality of life, we can help our economy to function better.

We can provide ourselves medical care, we can free up resources at the State and city levels. If you take medical care off the backs of the States and allow them to put that money into education and into infrastructure, we will all be better off.

□ 1320

Mr. Speaker, those are the differences between the parties. We do not differ about how much money we should spend. That part of the budget agreement is not in dispute. This administration wants to spend tens of billions of dollars a year more than there is any conceivable need for in terms of American security because they say that is the price of leadership in the free world, and on the Democratic side we are going to want to turn some of

that into deficit reduction and some of that into spending on behalf of important, undeniable societal needs in transportation, in the environment, in education, in housing, and in medical care.

Mr. Speaker, we will not solve all the problems. We will come a lot closer to giving Americans the quality of life they have earned. This is a Nation that has people in it who have worked very, very hard, and sometimes we are too self-critical. Sometimes we say: How come America in 1991 is not where it was in 1961 in terms of the worldwide economy?

There are a number of answers. An absolutely essential part of the answer is that for the past 30 years we have been subsidizing militarily our increasingly wealthy allies. We have diverted from our own needs trillions of dollars by now that we have spent on the defense of others, and while that was necessary for a while, and we cannot dispute when it stopped being necessary, it is indisputably unnecessary now.

I do not want a nationalist America. I do not want an isolationalist or protectionist America. I want to do more for genuinely poor people elsewhere in the world. I want an America that stands for human rights. I want an America that will go to the defense of nations that are beleaguered by larger neighbors. But I also want an America that thinks enough of its own citizens to say that, when we are dealing with people of equal wealth to ourselves, that we expect equal treatment, and I want an America that says, "Having succeeded in repelling a military threat against the world, we now understand the wisdom of using some of those resources for a better standard of living." It is not sensible to continue to spend so much on the military effort where we have succeeded and so little on the economic effort.

In 1945 through 1949 we evolved a very sensible policy of using our economic strength to meet the military threat. The time has come now to recognize, not that the military threat has disappeared, but that the order of priority has reversed, that America today has economic needs greater than its military needs, and the only thing that prevents us from acting on that would be our own foolishness.

THE RESCUE OF ETHIOPIAN JEWRY REQUIRES U.S. RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 60 minutes.

Mrs. LOWEY of New York. Mr. Speaker, a request is expected from the Government of Israel in September for loan guarantees from the United States to assist them in the massive responsibility of providing housing to the thousands upon thousands of refugees whom they are helping begin new lives. The focus in recent years has been on the large number of Soviet Jews seeking the right to emigrate to Israel, and recent changes in Soviet policies, including the new emigration law which is set to be fully implemented in 1993, have dramatically increased the number of Soviet Jews able to leave the Soviet Union for Israel. However, at the end of May, I had the unique opportunity to observe firsthand the almost miraculous rescue of Ethiopian Jews from that war torn and impoverished nation.

The second International Conference of Jewish Members of Parliaments which I attended as a member of the U.S. delegation, was dramatically altered by one of the most historic and joyous events in the history of the Jewish people: the rescue of Ethiopian Jewry.

The conference began, as planned, with a Shabbat dinner in the home of a Member of the Knesset, where there was a frank exchange on the need to revitalize the peace process and to spur economic development in Israel. The wide range of views expressed on these and other issues demonstrated that Israel is a vital and functioning democracy, in sharp contrast to its neighbors.

However, the following day, our regular program was interrupted with an announcement that the longtime dream of rescuing Ethiopian Jewry was already in progress. Although we were aware of the deteriorating situation in Ethiopia and rumors of an imminent rescue were rampant, the actual announcement that Operation Solomon was underway had a profound impact on all of us.

The meeting was quickly adjourned, and we left to welcome incoming Ethiopian Jews at the nearby Diplomat Hotel. When we arrived, we found crowds of Ethiopians who had landed in Israel only hours before. The adults, dressed in simple white, carried themselves with a quiet grace and dignity despite the enormous strains of relocation in a distant land. When they were greeted, they smiled broadly and, knowing almost no Hebrew, exclaimed, "Shalom! Shalom!" Some of the children were nursing, while others clung to their stuffed animals—their only possession in the world.

In their faces I could see the same optimism and anticipation that characterizes all immigrants to Israel—the hope and promise of an individual who has been given the opportunity to start a new life with brothers and sisters in our historic and permanent homeland.

Later, at the Knesset, Uri Ulbrani briefed us on the success of Operation Solomon. The operation had been planned for months, but the final details had been worked out only in the last few hours. It involved a massive airlift of the refugees, who had gathered near the Israeli Embassy in Addis Ababa; 40 round trips were made by Israel Air Force and El Al planes, with as many as 28 planes in the air at one time. One of the planes set a world record for number of passengers: 1,080 persons seated on the floor of an enormous cargo plane. The massive operation, which rescued more than 14,400 Ethiopian Jews, was over in just 33 hours.

All of the participants in the conference were aware of the importance of this event, and a sense of awe and pride filled the air after our briefing. Having been called together to discuss Israel's role in the community of nations, we could not have received a better reminder of its fundamental purpose: to provide a haven and a homeland for all Jews.

The challenge that the Israelis assumed in taking on this rescue will be massive. The Ethiopian Jews are ill-prepared for life in a modern nation. Unlike the Soviet Jews, who are overqualified for most of the jobs that are available, Ehtiopian Jews must be trained extensively—for the simple daily tasks of life in a modern nation, and for the more complicated tasks associated with participation in the economy. Israel saved the Ethiopian Jews because that is what Israel stands for: Opening its welcoming arms to Jews from anywhere in the world.

However, at the Mevasseret Zion Absorption Center—one of 46 absorption centers around the nation—the full impact of Operation Solomon was evident. Here, immigrant children from around the world practiced Hebrew together and learned about their new homeland. Around the room were beautiful Ethiopian children, side by side with children from the Soviet Union and other nations of the world, leaving no doubt about the importance and the meaning of Israel.

The charge that Zionism is racism has always been baseless and vile. But in that room, the charge seemed nonsensical and laughably false. For right there, Zionism was at work, rescuing Jewish lives from the clutches of famine, violence, and oppression—without regard to their circumstances and, certainly, without regard to their color. The very visible nature of what occurred should provide the impetus for the U.N. General Assembly to repeal its resolution which equated Zionism with racism. Earlier this month, along with Representatives WAXMAN and GILMAN and 67 of our colleagues, I joined in a letter urging Secretary General Perez de Cuellar to help secure repeal of that resolution. It is my sincere hope that he will understand the urgency of such action and will heed our call.

In the eyes of Ethiopian Jewish children who were rescued, I saw an affirmation of life and freedom and security for all Jews, black and white, Ashkenazim and Sephardim, observant and secular. In the eyes of Ethiopian children, I saw history in the making. And in my heart, I gave thanks to God for the success of this historic rescue mission.

At the beginning of our conference, one participant from Hungary introduced himself as a "Hungarian of Jewish descent." Just before our departure, he addressed the group again, saying, "I am a Jew." He was overcome by his newfound understanding of the importance of Israel and the importance of his heritage—the same thoughts that gave the Ethiopian Jews the strength they needed to survive their passage to a new life.

Once again, the enormous importance of Israel had been reaffirmed for all. In the words of an Ethiopian Jewish prayer, "Do not separate me, O Lord, from the chosen, from the joy, from the light and the splendor. Let me see, O Lord, the light of Israel."

Having seen this monumental endeavor succeed in rescuing thousands of Ethiopian Jews from a desperate situation virtually without compare, it is my view that the best humanitarian traditions of the United States must now come to the fore. To not respond to the

incredible needs of these people who were threatened with annihilation and to the needs of the thousands of Soviet Jews who are fleeing to Israel to find freedom and to escape persecution would be an abdication of our principles and of the very spirit of our Nation.

While I expect that the impending Israeli request for loan guarantees to respond to these needs will prompt controversy and prolonged debate within the administration and in the Congress, I call on my colleagues to look into their hearts and to do what is right. It would be a travesty and a black mark on our Nation if, after all that has been accomplished, we were to turn our backs on those who now have the possibility of a new beginning.

AN EXPLANATION OF THE TAX SIMPLIFICATION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 60 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to give my colleagues an explanation of H.R. 2777, the Tax Simplification Act of 1991, and H.R. 2775, relating to the additional simplification of the tax law, which I introduced yesterday, along with the Honorable BILL ARCHER, ranking Republican on the Ways and Means Committee, H.R. 2777, the Tax Simplification Act of 1991. An identical bill is being introduced by Senator LLOYD BENTSEN, Chairman of the Senate Finance Committee, and Senator BOB PACKWOOD, ranking Republican on the Senate Finance Committee. I am grateful for the cooperation of Senators BENTSEN and PACKWOOD and Mr. ARCHER in the development and introduction of this important legislation. In addition, I also introduced H.R. 2775, which contains additional tax simplification proposals.

H.R. 2777 and H.R. 2775 are the culmination of a tax simplification process that began in February, 1990, when I requested that the interested public, Treasury Secretary Nicholas Brady, and the staffs of the Ways and Means Committee and the Joint Committee on Taxation develop tax simplification proposals for review by the full Committee.

In response, I received literally hundreds of suggestions. Most of them were published last year in an 1,100-page Ways and Means Committee print. The proposals ranged from the grandiose to the picayune. Some are radical, some are mundane. Some have no revenue effect, and some are budget-busters. Some appear to be true simplification, some are not.

After the proposals were received, I laid out several simplification criteria for evaluating their merit:

First, whether the proposal would reduce significantly mechanical complexity or recordkeeping requirements;

Second, whether the proposal would reduce significantly compliance and administrative costs;

Third, whether the proposal would preserve underlying policy objectives of current law and not create or reopen opportunities for abusive tax planning;

Fourth, whether the proposal is consistent with generally accepted tax principles;

Fifth, whether the proposal would cause significant shifts of tax burdens among taxpayers;

Sixth, whether the simplification that the proposal would achieve outweighs the instability resulting from making any statutory change, as opposed to permitting statutory repose; and

Seventh, whether revenue effects of the proposal would comport with current revenue and budgetary constraints.

Using these criteria, the staffs of the tax-writing committees in both Houses and the Joint Committee on Taxation, in a bipartisan manner and with the full participation of the Treasury Department and Internal Revenue Service staff, have made a good-faith effort to assess each of the simplification proposals. The bills that I am introducing today reflect their collective recommendations.

After enactment of the Tax Reform Act of 1986, I expressed my personal interest in simplifying the Federal Tax Code. I remain committed to that goal. Efforts to simplify discrete sections of the Tax Code do not create headlines. That's not the purpose. Rather, I feel that the Committee on Ways and Means and the Congress have a responsibility to pursue meaningful tax simplification, however incremental. We owe it to the millions of taxpayers who face compliance burdens, and we owe it to our voluntary system of taxation, if it is to remain viable.

The current complexity of the Tax Code has evolved over decades. It is not reasonable to expect that it can be cured overnight or in a single session of Congress. Tax simplification is an ongoing process, an ongoing commitment of all those concerned about the integrity of the Federal tax system. Nevertheless, I was encouraged by the important steps taken in the first session of the 101st Congress to simplify and make more rational the corporate alternative minimum tax, tax-exempt bond rebate rules, and civil penalty provisions. These efforts demonstrated that meaningful tax simplification can be accomplished without sacrificing policy objectives or violating current revenue constraints.

The bills that I am introducing today are not all things for all people, nor are they the simplification bills to end all simplification bills. Rather, they are the next step—an important step—in an ongoing, orderly process to simplify the tax laws. While there is much substance in these bills, much more remains to be done. In this year following a hard-earned, 5-year budget agreement, however, it is important not to reopen the fundamental decisions made in that agreement or to introduce needless instability into the tax system. As a matter of legislative practicality, it is also important to keep a tax simplification project to a manageable size.

As tax simplification proceeds step by step, however, I hope to pursue additional simplification proposals in future sessions of Congress. For example, consideration was given to including in these bills certain worthwhile simplification proposals which were ultimately excluded because of budgetary constraints. In particular, comprehensive simplification of the earned income tax credit and certain proposals to simplify the treatment of earnings from the conduct of a business through certain foreign corporations should remain priorities for future legislation.

Mr. Speaker, I want to emphasize today, as I did when I first announced this simplification initiative, that it is not intended to be an exercise in legislating tax relief for particular taxpayers or industries. Nor is it an invitation to reopen or reverse fundamental policies of recently enacted statutes. Rather, H.R. 2777 and H.R. 2775 are intended to be the next progressive steps toward simplifying important areas of our tax laws. If the Congress and the interested public are committed to true simplification, they will exercise restraint as these bills progress in the legislative process—for much is at stake here, in terms of the prospects for future simplification proposals.

On July 23 and 24, the Committee on Ways and Means will hold hearings on H.R. 2777 and H.R. 2775, as well as on H.R. 1555, the Technical Corrections Act of 1991. After receiving testimony on the provisions of these three bills, the Committee should be prepared to take legislative action in the fall.

My explanations of the Tax Simplification Act of 1991 and of H.R. 2775 follow:

TITLE I.—INDIVIDUAL TAX PROVISIONS

1. Repeal supplemental young child credit portion of earned income tax credit and increase family size adjustment for earned income tax credit (sec. 101 of the bill and sec. 32 of the Code)

Present Law

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC) of up to 16.7 percent (17.3 percent for taxpayers with more than one qualifying child) of the first $7,140 of earned income for 1991. The maximum amount of credit for 1991 is $1,192 ($1,235 for taxpayers with more than 1 qualifying child), and this maximum is reduced by 11.93 percent (12.36 percent for taxpayers with more than one qualifying child) of earned income (or adjusted gross income, if greater) in excess of $11,250. The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $21,245. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation.

A supplemental young child credit is available for qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same base as the ordinary EITC. The maximum supplemental young child credit for 1991 is $357. If a taxpayer claims the supplemental young child credit, the child that qualifies the taxpayer for such credit is not a qualifying individual under the dependent care tax credit (sec. 21).

Reasons for Simplification

The existence of a supplemental credit as part of the EITC increases the number of computations required of taxpayers who may be eligible for the credit. In addition, the limitation imposed on taxpayers who may

also be able to claim the dependent care tax credit essentially requires that these taxpayers compute the tax benefits from both credits and then choose the alternative that provides the larger tax benefit. The compliance burden of these additional computations may be substantial for many taxpayers.

Explanation of Provision

The bill repeals the supplemental young child credit and increases the basic EITC rate for families with 2 or more qualifying children to 21.7 percent in 1992, to 22.8 percent in 1993 and to 28.3 percent in 1994 and thereafter. The phaseout rates for the EITC for families with 2 or more qualifying children will be 15.5 percent for 1992, 16.28 percent for 1993, and 20.22 percent for 1994 and thereafter.

Effective Date

The provision is effective for tax years beginning after December 31, 1991.

2. Rollover of gain on sale of principal residence in case of divorce or separation (sec. 102 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case, including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.

Reasons for Simplification

In the case of a divorce or marital separation, the determination of principal residence for one or both spouses may be unduly complex for both the taxpayer and the Internal Revenue Service. The creation of a safe-harbor rule for certain sales pursuant to a divorce or marital separation will ease administration of the law while still preserving the policy that the rollover is available only for the sale of an individual's principal residence.

Explanation of Provision

The bill provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the bill provides that a residence is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation, and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

3. De minimis exception to passive loss rules (sec. 103 of the bill and sec. 469 of the Code)

Present Law

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions from passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not from a passive activity. Deductions that are suspended under this rule are carried forward and treated as deductions from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Material participation requires a taxpayer to be involved in the operations of the activity on a regular, continuous and substantial basis.

Rental activities are also included in the definition of passive activities. A special rule permits the deduction of up to $25,000 of losses from certain rental real estate activities in which the taxpayer actively participates (even though the activities are considered passive) for taxpayers with adjusted gross incomes of $100,000 or less. This deduction is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000. A rental activity is defined as any activity where payments are principally for the use of tangible property.

Reasons for Simplification

A taxpayer who has a very small amount of passive losses that are disallowed for the year is required to carry forward the disallowed losses to the next year. In the case of certain small amounts of passive losses that cannot otherwise be deducted in the current taxable year, the bill permits the deduction and eliminates the need to keep records of the carryforward.

Explanation of Provision

The bill creates a $200 de minimis exception to the rule disallowing net passive activity losses. Under the exception, a taxpayer who is an individual and whose total net passive activity losses for the year do not exceed $200 for the taxable year generally may deduct such losses for the year. The exception also applies to estates for the first two taxable years following the decedent's death. Similarly to the present-law rules applicable to the $25,000 exception, the amount under the exception provided in the bill in $100 in the case of a married taxpayer filing a separate return, and the exception is not available in the case of a married taxpayer filing a separate return who does not live apart from his spouse at all times during the taxable year.

The $200 exception is available only for taxpayers with net passive activity losses totalling $200 or less; a taxpayer with $300 of passive losses for the year, for example, is not eligible for the $200 exception. The $200 exception is applied after determining the taxpayer's net passive activity loss for the year (which includes taking into account suspended losses from prior year), but before taking the $25,000 allowance for rental real estate. Thus, for example, if a taxpayer has $500 of losses from rental real estate, he is not eligible for the $200 exception but may be eligible for the $25,000 exception (assuming he otherwise meets the requirements of the $25,000 exception). In all other respects, the $200 exception is applied after applying all other applicable rules under the passive loss rule.

The $200 exception does not apply with respect to passive activity credits.

The $200 exception does not apply with respect to items from publicly traded partnerships, to which the passive loss rule has separate application under present law.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

TITLE II.—TAX-EXEMPT BOND PROVISIONS

1. Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of these governmental units (Code sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting a conduit to provide financing for private parties in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds is not taxable if (a) the financed activity is specified in the Code and (b) at least 95 percent of the net proceeds of the bond issue are used to finance the specified activity.

Issuers of State and local government bonds must satisfy numerous other requirements, including arbitrage restrictions (for all such bonds) and annual State volume limitations (for most private activity bonds) for the interest on their bonds to be excluded from gross income.

2. Provisions of the bill

a. Repeal of unrelated and disproportionate use limit (sec. 201 of the bill and sec. 141(b) of the Code).

Present Law

Bonds issued by States and local governmental units are private activity bonds if (1) more than ten percent of the proceeds of the issue of which they are part satisfy a private business use and payment test or (2) more than five percent ($5 million, if less) of the proceeds are used to finance loans to persons other than States or local governments. The ten-percent private business limits are reduced to five percent in the case of certain use that is unrelated to a governmental use also being financed with the proceeds of the issue (the "unrelated and disproportionate use limit").

Reasons for Simplification

Whether a private business use is related to a governmental activity also being financed with a bond issue may be a complex facts and circumstances determination. In light of the general ten-percent limit on private business use, the private loan restriction, and the State volume limit requirement for larger governmental bond issues, the complexity associated with this determination may be eliminiated without sacrificing the Federal policy of strictly limiting use of governmental bond proceeds to finance private activities not specifically approved by the Congress.

Explanation of Provision

The bill repeals the five-percent unrelated and disproportionate use limit.

Effective Date

This provision applies to bonds issued after the date of enactment.

b. Simplification of arbitrage rebate requirement for smaller issuers of governmental bonds (sec. 202 of the bill and sec. 148 of Code).

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in in-

vestments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. The rebate requirement does not apply to governmental bonds issued by issuers with general taxing powers if they issue $5 million or fewer of such bonds during the calendar year when the bonds are issued.

Reasons for Simplification

The Federal policy addressed by the arbitrage rebate requirement is the elimination of earlier and larger issuance of tax-exempt bonds to obtain a financial advantage by investing funds borrowed at lower tax-exempt rates in higher yielding taxable investments. Compliance with the rebate requirement may necessitate adherence to accounting practices different from those used generally for governmental operations.

The exception from the arbitrage rebate requirement for governmental bonds issued by smaller governmental units reflects a balancing of the policy of preventing arbitrage-motivated bond issuance with the desire to make the administrative responsibilities necessary to comply with the rebate requirement easily manageable. Increasing the current $5 million annual issuance limit defining eligible governments to $10 million is appropriate.

Explanation of Provision

The bill increases the $5 million annual issuance limit for small issuers whose governmental bonds are not subject to rebate to $10 million.

Effective Date

This provision applies to bonds issued in calendar years beginning after the date of enactment.

c. Repeal of 150-percent of debt service limit (sec. 203 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage restrictions on investment of their bond proceeds. The first set requires that tax-exempt bond proceeds not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Except for temporary periods and amounts held pending use to pay current debt service, present law also limits the amount of the proceeds of private activity bonds (other than qualified 501(c)(3) bonds) that may be invested at any time at materially higher yields during a bond year to 150 percent of the debt service for that bond year. This restriction affects primarily investments in reasonably required reserve or replacement funds. Present law further restricts the amount of proceeds from the sale of bonds that may be invested in reserve funds to ten percent of such proceeds.

The second set of arbitrage restrictions requires that generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

The 150-percent of debt service limit was enacted before enactment of the arbitrage rebate requirement and the ten-percent limit on the size of reasonably required reserve or replacement funds. It was intended to eliminate arbitrage-motivated activities available from investment of such reserve funds. Provided that comprehensive yield restriction and rebate requirements and the overall present-law size limit on reserve funds are maintained, the 150-percent of debt service yield restriction limit could be viewed as duplicative.

Explanation of Provision

The bill repeals the 150-percent of debt service yield restriction.

Effective Date

This provision applies to bonds issued after the date of enactment.

d. Election to terminate most post-initial temporary period rebate liability for certain bonds (sec. 204 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage requirements with respect to investment of their bond proceeds. First, tax-exempt bond proceeds may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits generally include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

Arbitrage-motivated bond issuance may be expected to occur as a result of lower tax-exempt borrowing costs relative to higher yielding taxable investments if issuers are allowed to earn and retain profits on substantial amounts of bond proceeds during extended periods. Tax-exempt bond issuers have been subject to a yield restriction requirement since 1969. The arbitrage rebate requirement was first enacted in 1980 (qualified mortgage bonds) and 1984 (most industrial development bonds). The requirement was extended to all other bonds in 1986.

Familiarity with the long-standing yield restriction requirement by bond issuers may make compliance with that requirement easier than compliance with the newer rebate requirement. If periods when arbitrage profits may be earned on substantial amounts of bond proceeds and retained by issuers are eliminated or substantially curtailed through an expanded yield restriction requirement, the arbitrage rebate requirement likewise may be eliminated or substantially curtailed. Such a provision should simplify administrative compliance with the arbitrage restrictions without increasing Federal revenue loss from unnecessary issuance of tax-exempt bonds.

Statutorily limiting periods when rebate liability exists also relieves issuers of the administrative complexity associated with calculating arbitrage payments. Under present law, issuers must perform these calculations even if they restrict the yield on investments so that no arbitrage profits are earned (or rebate owed).

Explanation of Provision

The bill allows issuers of bonds (other than tax and revenue anticipation notes and advance refunding bonds) to elect to terminate prospective application of the arbitrage rebate requirement to certain bond proceeds, and to comply instead with a yield restriction requirement similar to that which applies to the bonds under present law.[1]

The election generally applies to all proceeds of an issue other than proceeds invested in a bona fide debt service fund or a reserve or replacement fund (e.g., a "4R" fund). However, issuers may elect to apply the provision to proceeds invested in reserve or replacement funds.[2]

The current refunding of bonds with respect to which an election has been made does not terminate the election with respect to the refunded bonds; rather, the current refunding bonds "step into the shoes" of the refunded bonds.[3]

The election (including the election for reserve or replacement funds) must be made no later than 90 days after the expiration of the initial temporary period applicable to the bonds. If the election is made, these issuers will be liable for rebate of arbitrage profits earned through the end of the 90-day period after expiration of that initial three- or five-year temporary period, or if earlier, substantial completion of the governmental spending purposes of the issue.

Issuers will make a final payment of their rebate liability on proceeds subject to the election 60 days after the date on which the election is effective.

After the election is effective, issuers must forego any further periods of unrestricted yield (i.e., further temporary periods) and, except as described below, restrict the yield on nonpurpose investments of bond proceeds to a yield that does not exceed the yield on the issue of which the bonds are a part. The yield restriction requirement does not apply to proceeds invested during the following newly prescribed, exclusive temporary periods:

(1) Proceeds held during the minimum notice period prescribed by the Treasury Department State and local government series ("SLGS") obligation program immediately preceding their use to purchase SLGS;

(2) Proceeds invested during a period not exceeding ten days immediately preceding their use to redeem bonds; and

(3) In the case of other proceeds, periods not exceeding five consecutive days, subject to a maximum of 15 days during any 12-month period.

Effective Date

This provision applies to bonds issued after the date of enactment.

TITLE III.—ADMINISTRATIVE PROVISIONS

1. Simplify payroll tax deposit requirements (sec. 301 of the bill and sec. 6302 of the Code)

Present Law

The Code provides that the Secretary of the Treasury ("Secretary") may establish the mode or time for collecting any tax that is not specified in the Code (sec. 6302(a)). In general, Treasury regulations have established the system under which employers de-

[1] In the case of pooled financing bonds, the election is made separately by the issuer of the pooled financing bonds and by borrowers from the pool.

[2] This election is not available to construction bond issues with respect to which an election to pay penalties in lieu of rebate is made (sec. 148(f)(4)(C)(vii) and (viii)).

[3] In the case of a high-to-low refunding, the yield restriction requirement is adjusted to reflect the lower yield on the refunding bonds.

posit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days after the end of each eighth-monthly period. Monthly or quarterly deposits are required for smaller amounts.

In addition, the Code requires employers who are on this eighth-monthly system to deposit income taxes withheld from employees' wages and FICA taxes by the close of the next banking day (instead of by the close of the third banking day) after any day on which the business cumulates an amount to be deposited equal to or greater than $100,000 (regardless of whether that day is the last day of an eighth-monthly period).

Reasons for Simplification

Many employers find the present-law deposit requirements extremely confusing and complex. A large number of employers have difficulty dealing with the eighth-monthly system, in part because the day of the week on which the last day of each eighth-monthly period falls varies from month to month. In addition, a number of employers have difficulty in determining with certainty and with sufficient lead time which of the four deposit schemes of present law they are required to utilize.

Explanation of Provision

In general

The bill replaces the entire payroll tax deposit system with a new system that is clearer and easier to understand. In general, the new system consists of three basic deposit timetables. The first, which is most generally applicable (and replaces the eighth-monthly system), requires deposits twice a week, on Tuesdays and Fridays. The second, which applies to large depositors, retains the requirement of present law that cumulations of an amount to be deposited of $100,000 or more must be deposited on the next day. The third, which applies to many small depositors, provides generally that if the amount required to be deposited was $3,500 or less per quarter for a previous two-year base period, deposits must be made only once a quarter, on or before the last day of the first month of the following quarter.

Tuesday, Friday deposit rule

The Tuesday/Friday rule operates in the following manner. Amounts attributable to wage payments made on Wednesday, Thursday, or Friday are to be deposited on or before the following Tuesday. Amounts attributable to wage payments made on Saturday, Sunday, Monday, or Tuesday are to be deposited on or before the following Friday. Utilizing Tuesday and Friday as both the final days of the portion of the week with respect to which amounts to be deposited are cumulated as well as the days on which deposits must be made will provide a simple, easily remembered rule that will simplify the administration of these deposit requirements for both employers and the IRS.

Small depositor rules

The small depositor rules operate as follows. If an employer is a small depositor, deposits of employment taxes attributable to wage payments during a calendar quarter must be made on or before the last day of the first month of the following quarter. Thus, for example, a small depositor must deposit employment taxes attributable to the January through March calendar quarter no later than April 30.

A person is a small depositor for a calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments in each of those calendar quarters was $3,500 or less. The base period is defined to be the eight calendar quarters ending with the second preceding calendar quarter before the quarter with respect to which the deposit requirements are being determined. For example, the base period for the calendar quarter of April through June 1993 is January 1991 through December 1992. If with respect to each of the calendar quarters in that two-year period, the amount of employment taxes was $3,500 or less, then the employer is a small depositor for the April through June 1993 calendar quarter and is required to make one deposit of employment taxes for that quarter, on or before July 31, 1993. This is true regardless of the amount of employment taxes for the April through June 1993 quarter. The only exception to this is that the $100,000 rule applies to all depositors, including small depositors. This application of the $100,000 rule should have no impact on small employers; it is designed to prevent very large new companies from making deposits only once for each quarter.

New companies will initially be treated as small depositors. For purposes of performing the base period determination, a company is considered to have employment taxes of zero for any calendar quarter in which a company did not exist. Consequently, new companies will, for at least the first two calendar quarters of their existence, be required to deposit only once for each quarter (unless they fall within the $100,000 rule).

The small depositor rule is designed to provide certainty to small employers with respect to their current deposit requirements. Most employers will be able to examine their quarterly employment tax returns (Form 941) for the two years in the base period and readily determine on that basis whether they are small depositors or must deposit on the Tuesday/Friday system. The "second preceding quarter" provision is designed to provide employers with ample lead time to make this determination prior to the start of a calendar quarter.

Safe harbor

The bill provides a statutory safe harbor with respect to certain shortfalls in deposits. An employer will be treated as having deposited the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of $150 or two percent of the amount of employment taxes otherwise required to be deposited. A shortfall is the excess of the amount required to be deposited (without regard to this rule) over the amount actually deposited on or before the last day on which that deposit is required. Any shortfall is to be deposited as required by Treasury regulations.

Definitions and other rules

The bill provides that deposits are required only on banking days. (This rule is also contained in present law.) If a deposit is required to be made on or before a day that is not a banking day, the deposit is considered to have been made on a timely basis if it is made on or before the close of the next banking day. It is anticipated that the substance of Treasury regulations defining the term "banking day" will not be changed. For example, if a deposit is required to be made on a Friday, which is also the July 4 holiday, that deposit would be considered to be made on a timely basis if it is made on or before the following Monday.

The bill defines "employment taxes" to mean FICA taxes (both the employer and employee portions), Railroad Retirement Tax Act taxes, and withheld income taxes (as well as similar withheld taxes under chapter 24 of the Code).

These provisions generally do not apply to employment taxes that are not required to be deposited pursuant to Treasury regulations issued pursuant to section 6302. Under present law, employers with less than $500 of employment taxes for a calendar quarter are not required to deposit those taxes. They are instead permitted to remit those taxes with the quarterly employment tax return (Form 941). It is anticipated that a similar system permitting remittance (rather than requiring deposit) of these small amounts will be continued.

Treasury regulations

The bill provides that the Secretary may prescribe regulations relating to specific issues (in addition to the general authority to issue regulations with respect to collecting tax in sec. 6302 or generally in sec. 7805). First, the regulations may specify alternate employment tax requirements for employers who fail to comply with the requirements of this provision. This would enable the IRS to continue its practice (currently authorized by regulations issued pursuant to sec. 6302(a)) of specifying more frequent deposit requirements or alternate payment mechanisms for employers who have seriously violated the established deposit requirements.

The bill also permits Treasury to issue regulations specifying the additional circumstances (beyond those provided in the bill) under which an employer may be treated as a small depositor. This in effect permits the Treasury to expand (but not contract) the definition of small depositors.

In addition, the bill permits Treasury to issue regulations modifying these provisions for end-of-quarter periods. This is designed to permit the IRS to require appropriate treatment of amounts that overlap two quarters. For example, assume that a quarter ends on Wednesday. The deposit normally required to be made on or before the following Tuesday could include amounts attributable to the previous quarter (with respect to Wednesday) as well as amounts attributable to the current quarter (with respect to Thursday and Friday). Treasury regulations can specify an alternate rule to distinguish amounts relating to the two quarters.

Finally, the bill permits Treasury to issue regulations establishing different deposit requirements for amounts withheld pursuant to the backup withholding requirements of section 3406. Under present law, these amounts are treated the same as amounts withheld from income taxes. Because amounts withheld pursuant to the backup withholding requirements are often relatively small and are not generally handled by payroll offices, it is appropriate for Treasury to provide alternate deposit rules with respect to these amounts.

This simplified payroll tax deposit system will be significantly easier to understand and to administer for both businesses and the IRS. This should reduce materially the number of businesses who are subject to the penalty for failure to make timely deposits (sec. 6656) due to inadvertent errors. It is intended that, for purposes of this penalty, reasonable cause also apply to any failure to make deposits if the employer's total employment tax liability is $3,500 or less for any quarter.

Thus, employers who are certain that they will have less than that amount to be deposited in a quarter will only need to be concerned with the quarterly deposit rule for that quarter. If, however, an employer is uncertain as to whether the amount required to be deposited will be $3,500 or less for the quarter, and the employer is not a small depositor (as defined above), the employer should make deposits under the Tuesday/Friday rule.

Effective Date

The provision is effective for amounts attributable to payments made after December 31, 1992. This will permit employers and the IRS to have adequate time to implement this new system with minimal difficulty.

2. Simplify estimated tax payment rules for small corporations (sec. 311 of the bill and sec. 6655 of the Code)

Present Law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four timely estimated tax payments each equal to at least 22.5 percent of its tax liability for the current taxable year. In addition, a corporation that is not a "large corporation" may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year, so long as the preceding year was not a short taxable year and corporation filed a return showing a tax liability for such year. A large corporation may use this second rule only with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Reasons for Simplification

The calculation of estimated tax payments may be difficult for a corporation (particularly a small corporation) that had no tax liability in the preceding taxable year because it must use the current taxable year rule; it is not allowed to use a safe harbor that is available to a corporation with a tax liability in the preceding taxable year.

Explanation of Provision

The bill provides that a small corporation (i.e., a corporation that is not a "large corporation" under present law) with no tax liability in the preceding taxable year may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the second preceding taxable year.[4] This rule will apply so long as (1) neither the preceding taxable year nor the second preceding taxable year was a short tax year, and (2) the corporation filed tax returns for both years. If the corporation satisfies these two requirements and did not have a tax liability for either of the two preceding taxable years, the corporation will not be required to make estimated tax payments for the current taxable year.

A large corporation may use this expended safe harbor with respect to its estimated tax payment for the first quarter of its taxable year, as under present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment of this Act.

[4] As under present law, a small corporation may continue to use the current taxable year rule for estimated tax purposes.

3. Interest rate on large corporate underpayments (sec. 321 of the bill and sec. 6621(c) of the Code)

Present Law

The interest rate on a large corporate underpayment of tax in the Federal short-term rate plus five percentage points. A large corporate underpayment is any underpayment by a subchapter C corporation of any tax imposed for any taxable period, if the amount of such underpayment for such period exceeds $100,000. The large corporate underpayment rate generally applies to periods beginning 30 days after the earlier of the date of which the first letter of proposed deficiency, a statutory notice of deficiency, or a nondeficiency letter or notice of assessment or proposed assessment is sent. For this purpose, a letter or notice is disregarded if the taxpayer makes a payment equal to the amount shown on the letter or notice within that 30 day period.

Reason for Simplification

The large corporate underpayment rate generally applies if the underpayment of tax for a taxable period exceeds $100,000, even if the initial letter or notice of deficiency, proposed deficiency, assessment, or proposed assessment is for an amount less than $100,000. Thus, for example, under present law, a nondeficiency notice relating to a relatively minor mathematical error by the taxpayer may result in the application of the large corporate underpayment rate to a subsequently identified income tax deficiency.

Explanation of Provision

For purposes of determining the period to which the large corporate underpayment rates applies, any letter or notice will be disregarded if the amount of the deficiency, proposed deficiency, assessment, or proposed assessment set forth in the letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

Effective Date

The provision is effective for purposes of determining interest for periods after December 31, 1990.

TITLE IV.—ESTATE AND GIFT TAX PROVISIONS

Include fractional share of property qualifying for the marital deduction in the gross estate (sec. 401 of the bill and secs. 2056(b) and 2523 of the Code)

Present Law

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a power of appointment over, or an income interest in, a "specified portion" of property (sec. 2056(b)(5), (6), (7)). The spouse is subject to estate and gift tax on property over which he or she holds a power of appointment.

A Treasury regulation defines a "specified portion" to be a fractional or percentile share of a property interest (Treas. Reg. sec. 20.2056(b)-5(c)). Finding this regulation invalid, courts have held that the term "specified portion" includes a fixed dollar amount. (See *Northeastern Pennsylvania National Bank & Trust Co.* v. *United States*, 387 U.S. 213 (1967), *Estate of Alexander* v. *Commissioner*, 82 T.C. 34 (1984), aff'd, No. 8401600 (4th Cir. April 3, 1985).) Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

Reasons for Simplification

The marital deduction postpones the imposition of the estate or gift tax until the property is transferred outside the marital unit. The exceptions to the terminable interest rule insure that the present value of property qualifying for the marital deduction is subject to transfer tax in the hands of the recipient spouse. By invalidating the Treasury regulation having this effect, the court holdings create uncertainty. Reversal of the holdings makes the law more certain by clearly implementing the policy underlying the marital deduction.

Explanation of Provision

The bill provides that, the purposes of the marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and power of appointment are expressed as a fraction or a percentage of the property. The bill thereby reverses the court holdings and codifies the position of the Treasury Regulations.

It is intended that no inference be drawn from the provision with respect to the definition of "specified portion" under present law.

Effective Date

The provision generally applies to gifts made, and decedents dying, after date of enactment. The provision exempts a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment. The exemption does not apply if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer or alters the terms by which the interest passes.

H.R. 2777—TECHNICAL EXPLANATION OF THE BILL

TITLE I.—INDIVIDUAL TAX PROVISIONS

1. Rollover of gain on sale of principal residence (sec. 101 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the new replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the

sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

Reasons for Simplification

The rollover provision governing the sale of a principal residence is unnecessarily complex, in part due to the different set of rules that applies depending on whether the sale is work related. The bill simplifies the rollover provision by applying only one set of rules to the sale of a principal residence regardless of whether the sale is work related.

Explanation of Provision

Under the bill, gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases.

As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

2. Due dates for estimated tax payments of individuals (sec. 102 of the bill and sec. 6654 of the Code)

Present Law

In order to avoid an addition to tax, estimated tax payments of individuals generally are due on April 15th, June 15th, and September 15th of the taxable year for which the payment relates, and January 15th of the following taxable year. The amount of the estimated tax payments generally must be based on 90 percent of the tax shown on the return for the taxable year or 100 percent of the tax shown on the return for the preceding taxable year.

The due date for the tax return of an individual generally is April 15th of year following the taxable year to which the return relates. The due date may be automatically extended to August 15th.

Reason for Simplification

Delaying the due date of the second estimated tax installment would allow for a more accurate determination of the amount of the required payment if the payment is based on the tax shown on the return for the current year or if the payment is based on the tax shown on the return for the preceding year and the due date of the return for the preceding year has been extended.

Explanation of Provision

Under the bill, the due date for the second estimated tax payment of individuals is July 15th of the taxable year for which the payment relates.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

3. Permit payment of taxes by credit card (sec. 103 of the bill and sec. 6311 of the Code)

Present Law

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

Reasons for Simplification

Credit cards are a commonly used and reliable form of payment. Some taxpayers may find paying taxes by credit card more convenient than paying by check or money order.

Explanation of Provision

The bill permits payment of taxes by credit card, to the extent and under the conditions provided by regulations.

Effective Date

The provision is effective on the date of enactment.

4. Election by parent to claim unearned income of certain children on parent's return (sec. 104 of the bill and secs. 1(g)(7) and 57(j)(1) of the Code)

Present Law

The net unearned income of a child under 14 years of age is taxed to the child at the top rate of the parents. Net unearned income means unearned income less the sum of $500 and the greater of: (1) $500 of the standard deduction or $500 of itemized deductions or (2) the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependant cannot claim a standard deduction exceeding the greater of $500 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $500 amount is adjusted for inflation but the $1,000 amount is not.

Reasons for Simplification

The election by a parent to include a child's unearned income on a return is intended to eliminate the need to file a separate return for a child without reducing the family's total tax liability. Indexation of the underlying dollar amounts simplifies return preparation by making the election available to more taxpayers.

The restriction upon the exemption allowed to a child for alternative minimum tax purposes is intended to treat the family the same as if the child's income had been included on the parent's return. Indexation of this exemption amount achieves this goal and simplifies transfers by removing a tax consideration influencing the ownership of property within the family.

Explanation of Provision

The bill adjusts for inflation the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. Simplified foreign tax credit limitation for individuals (sec. 105 of the bill and sec. 904 of the Code)

Present Law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income, and foreign taxes paid, in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes, or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

Reasons for Simplification

It is believed that a significant number of individuals are entitled to credit relatively small amounts of foreign tax, imposed at modest effective tax rates on foreign source investment income. For taxpayers in this class, it is believed that applicable foreign tax credit limitations typically exceed the amounts of taxes paid. Therefore, it is believed that relieving these taxpayers from application of the full panopoly of foreign tax credit rules may achieve significant reduction in the complexity of the tax law without significantly altering actual tax liabilities. At the same time, however, it is believed that the benefits of simplified treatment should be limited to cover those cases where the taxpayer is receiving a payee statement showing the amount of the foreign source income and the foreign tax.

Explanation of Provision

The bill allows individuals with no more than $200 of creditable foreign taxes, and no foreign source income other than income which is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (It is intended that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to in-

clude all types of income that would be foreign personal holding income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined above by the bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities, and net gains from dispositions of property giving rise to such income, from certain commodities transactions, and from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high withholding tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)-1), the simplified limitation does not apply to an estate or trust.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Personal transactions by individuals in foreign currency (sec. 106 of the bill and sec. 988 of the Code)

Present Law

When a U.S. taxpayer with a dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss on reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory provisions. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law was uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

Reasons for Simplification

An individual who lives or travels abroad generally cannot use U.S. dollars to make all of the purchases incident to ordinary daily life. Instead, the local currency must often be used, yet the individual will not be treated for tax purposes as having changed his or her functional currency to the local currency. If it were necessary to treat foreign currency in this instance as property giving rise to U.S. dollar income or loss every time it was, in effect, "bartered" for goods or services, the U.S. individual living in or visiting a foreign country would have a significant administrative burden that may bear little or no relation to whether U.S.-dollar measured income has increased or decreased. An analogous issue arises for a corporation that has a qualified business unit ("QBU") in a foreign country but nevertheless uses the U.S. dollar as its functional currency pursuant to section 986(b)(3). Complexity concerns aside, Congress could have required in that case that gain or loss be computed on each transaction carried out in the local currency. Instead, however, Congress directed the Treasury to adopt a method of translation of the QBU's results that merely approximates the results of determining exchange gain or loss on a transaction-by-transaction basis.[2] It is believed that individuals also should be given relief from the requirement to keep track of gains on an actual transaction-by-transaction basis in certain cases.

Explanation of Provision

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the bill provides for nonrecognition of an individual's resulting exchange gains not exceeding $200. The bill does not change the treatment of resulting exchange losses. It is understood that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Advance due date for furnishing information to partners (sec. 107 of the bill and sec. 6031(b) of the Code)

Present Law

A partnership required to file an income tax return with the IRS must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax return.

Reasons for Simplification

Information returns that are received on or shortly before April 15 (or later) are difficult for individuals to use in preparing their tax returns (or in computing their payments) that are due on that date.

Explanation of Provision

The bill provides that a large partnership must furnish information returns to partners by the 15th day of the 3d month following the close of the partnership's taxable year. A large partnership is any partnership with 250 or more partners, as well as any partnership subject to the simplified reporting rules for large partnerships (contained in sec. 201 of this bill, described below).

Effective Date

The provision is effective for taxable years ending on or after December 31, 1992.

8. Make income tax withholding rules paralled to rules for exclusion from income for combat pay (sec. 108 of the bill and sec. 3401(a)(1) of the Code)

Present Law

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income (special rules apply if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone). In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

Reasons for Simplification

In most instances, the wage withholding rules closely parallel the inclusion in income rules. Consequently, most individuals whose income is subject to withholding may rely on withholding to fulfill their tax obligations. The differences between the withholding rules and the exclusion rules with respect to combat pay could cause affected taxpayers (primarily officers) to be surprised at the size of their additional tax liability at the time of filing their tax returns as a result of underwithholding. Paying the additional tax liability with their tax returns could lead to greater financial hardship than would withholding that is parallel to the exclusion rules.

Explanation of Provision

The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective Date

The provision is effective as of January 1, 1992.

9. Expanded access to simplified income tax returns (sec. 109 of the bill)

Present Law

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

Reasons for Simplification

Many individual taxpayers find the tax forms to be complex.

Explanation of Provision

The bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and to otherwise simplify the individual income tax returns.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this provision, together with any recommendations he may deem advisable.

Effective Date

The report is due no later than one year after the date of enactment.

10. Simplification of tax treatment of rural letter carriers' vehicle expenses (sec. 110 of the bill and sec. 162 of the Code)

Present Law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes, and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

Reasons for Simplification

The filing of tax returns by rural letter carriers can be complex. Under present law, those who are reimbursed at more than the 150 percent rate must report their reimbursement as income, and deduct their expenses as miscellaneous itemized deductions (subject to the 2 percent floor). Permitting the income and expenses to wash, so that neither will have to be reported on the rural letter carrier's tax return, will simplify these tax returns.

Explanation of Provision

The bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the current rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

11. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals (sec. 111 of the bill and sec. 4004(b)(3) of the Code)

Present Law

The Code imposes a 10-percent excise tax on the portion of the retail price of a passenger vehicle that exceeds $30,000. The tax also applies to separate purchases of component parts and accessories occuring within six months of the date the vehicle is placed in service.

Reasons for Simplification

It is appropriate to reduce the compliance burdens on handicapped persons.

Explanation of Provision

The bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of the disability.

Effective Date

The provision is effective for purchases after December 31, 1990.

TITLE II.—TREATMENT OF LARGE PARTNERSHIPS

A. General Provisions

1. Simplified flow-through for large partnerships (sec. 201 of the bill and new secs. 771–777 of the Code)

Present Law

Treatment of partnerships in general

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Capital gains

The net capital gain of an individual is taxed generally at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain over net short-term capital loss. Individuals with a net capital loss generally may deduct up to $3,000 of the loss each year against ordinary income. Net capital losses in excess of the $3,000 limit may be carried forward indefinitely.

A special rule applies to gains and losses on the sale, exchange or involuntary conversion of certain trade or business assets (sec. 1231). In general, net gains from such assets are treated as long-term capital gains but net losses are treated as ordinary losses.

A partner's share of a partnership's net short-term capital gain or loss and net long-term capital gain or loss from portfolio investments is separately reported to the partner. A partner's share of a partnership's net gain or loss under section 1231 generally is also separately reported to the partner.

Deductions

Miscellaneous itemized deductions (e.g., certain investment expenses) are deductible as an itemized deduction, but only to the extent that, in the aggregate, they exceed two percent of the individual's adjusted gross income.

In general, taxpayers are allowed a deduction for charitable contributions, subject to certain limitations. In the case of an individual, the deduction cannot exceed 50 percent of the individual's contribution base (generally, the individual's adjusted gross income) for the taxable year. In the case of a corporation, the deduction cannot exceed 10 percent of the corporation's taxable income (computed with certain modifications). Excess contributions are carried forward for five years.

A partner's distributive share of a partnership's miscellaneous itemized deductions and charitable contributions are separately reported to the partner.

Credits in general

Each partner is allowed his distributive share of credits against his taxable income. A refundable credit for gasoline used for exempt purposes is allowed. Nonrefundable credits for clinical testing expenses for certain drugs for rare diseases, for producing fuel nonconventional sources, and for the general business credit are also allowed. The general business credit includes the investment credit (which in turn includes the rehabilitation credit), the targeted jobs credit, the alcohol fuels credit, the research credit, and the low-income housing credit.

The credits for clinical testing expenses and for fuel from nonconventional sources are limited to the excess of regular tax over tentative minimum tax. Excess credits generally cannot be carried forward. The amount of general business credit allowable in a taxable year is limited to the excess of a partner's net income over the greater of (1) the tentative minimum tax for the year or (2) 25 percent of the taxpayer's net regular tax liability in excess of $25,000. The general business credit in excess of this amount is carried back three years and forward 15 years.

The benefit of the investment credit and the low-income housing credit is recaptured if, within a specified time period, the partner transfers his partnership interest or the partnership converts or transfers the property for which the credit was allowed.

Foreign tax credit

The foreign tax credit generally allows U.S. taxpayers to reduce U.S. income tax on foreign income by the amount of foreign income taxes paid with respect to that income. In lieu of electing the foreign tax credit, a taxpayer may deduct foreign taxes from adjusted gross income.

The total amount of the credit may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income bears to the taxpayer's worldwide taxable income for the taxable year. In addition, the foreign tax credit limitation is calculated separately for various categories of income, generally referred to as "separate limitation categories." That is, the total amount of the credit for foreign taxes on income in each category may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income in that category bears to the taxpayer's worldwide taxable income for the taxable year. A partner generally reports his share of partnership income from each category. A special rule, however, treats the distributive share of a limited partner owning less than ten percent of a partnership as *per se* in the passive category.

The amount of creditable taxes paid or accured in any taxable year which exceeds the foreign tax credit limitation may be carried back to the two immediately preceding taxable years and carried forward to the first five succeeding taxable years and credited to

the extent that the taxpayer otherwise has excess foreign tax credit limitations for the appropriate separate limitation category for those years.

Unrelated business taxable income

Tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as dividends, interest and certain rental income) are not treated as unrelated business taxable income. Thus, for a partner that is an exempt organization, whether partnership income is unrelated business taxable income depends on the character of the underlying income. Income from a publicly traded partnership, however, is treated as unrelated business taxable income regardless of the character of the underlying income.

Passive losses

The passive loss rules generally disallow deductions and credits from passive activities to the extent they exceed income from passive activities. Losses not allowed in a taxable year are suspended and treated as current deductions from passive activities in the next taxable year. These losses are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person in a taxable transaction. Passive activities include trade or business activities in which the taxpayer does not materially participate. (Limited partners generally do not materially participate in the activities of a partnership.) Passive activities also include rental activities (regardless of the taxpayer's material participation).[3] Portfolio income (such as interest and dividends), and expenses allocable to such income, are not treated as income or loss from a passive activity.

A partnership's operations may be treated as multiple activities for purposes of the passive loss rules. In such case, the partnership must separately report items of income and deductions from each of its activities.

Income from a publicly traded partnership is treated as portfolio income under the passive loss rules. In addition, loss from such a partnership is treated as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities.

REMICs

A tax is imposed on partnerships holding a residual interest in a real estate mortgage investment conduit (REMIC). The amount of the tax is the amount of excess inclusions allocable to partnership interests owned by certain tax-exempt organizations ("disqualified organizations") multiplied by the highest corporate tax rate.

Contribution of property to a partnership

In general, a partner recognizes no gain or loss upon the contribution of property to a partnership. However, income, gain, loss and deduction with respect to property contributed to a partnership by a partner must be allocated among the partners so as to take into account the difference between the basis of the property to the partnership and its fair market value at the time of contribution. In addition, the contributing partner must recognize gain or loss equal to such difference if the property is distributed to another partner within five years of its contribution (sec. 704(c)). Under regulations, the amount of depreciation and gain or loss that is allocated under these rules is limited to the depreciation allowable to, or gain or loss recognized by, the partnership for tax purposes with respect to the contributed property (the "ceiling rule").

Election of optional basis adjustments

In general, the transfer of a partnership interest or a distribution of partnership property does not affect the basis of partnership assets. A partnership, however, may elect to make certain adjustments in the basis of partnership property (sec. 754). Under a section 754 election, the transfer of a partnership interest generally results in an adjustment in the partnership's basis in its property for the benefit of the transferee partner only, to reflect the difference between that partner's basis for his interest and his proportionate share of the adjusted basis of partnership property (sec. 743(b)). Also under the election, a distribution of property to a partner in certain cases results in an adjustment in the basis of other partnership property (sec. 734(b)).

Terminations

A partnership terminates if either (1) all partners cease carrying on the business, financial operation or venture of the partnership, or (2) within a 12-month period 50 percent or more of the total partnership interests are sold or exchanged (sec. 708).

Reasons for Simplification

The requirement that each partner take into account separately his distributive share of a partnership's items of income, gain, loss, deduction and credit can result in the reporting of a large number of items to each partner. The Schedule K-1, on which such items are reported, contains space for more than 40 items. Reporting so many separately stated items is burdensome for individual investors with relatively small, passive interests in large partnerships. In many respects such investments are indistinguishable from those made in corporate stock or mutual funds, which do not require reporting of numerous separate items.

In addition, the number of items reported under the current regime makes it difficult for the Internal Revenue Service to match items reported on the K-1 against the partner's income tax return. Matching is also difficult because items on the K-1 are often modified or limited at the partner level before appearing on the partner's tax return.

By significantly reducing the number of items that must be separately reported to partners, the provision eases the reporting burden of partners and facilitates matching by the IRS. Moreover, it is understood that the Internal Revenue Service is considering restricting the use of substitute reporting forms by large partnerships. Reduction of the number of items makes possible a short standardized form.

In addition, the rules governing allocations with respect to property contributed to a partnership and the rules regarding partnership terminations are ill-suited to large partnerships, whose interests are commonly transferred. By adopting a deferred sale approach for property contributions and by reducing the possibility of partnership terminations, the provision improves the administration of the tax rules governing large partnerships.

Explanation of Provisions

In general

The bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners) and its partners. The bill provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain to the extent allocable to passive loss limitation activities and other activities; (4) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (5) general credits; (6) low-income housing credit; (7) rehabilitation credit; (8) for certain partnerships, tax-exempt interest; and (9) for certain partnerships, foreign taxes paid and foreign source partnership items.[4]

Under the bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[5] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and section 68 itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level. Thus, for example, any investment interest of the partnership is limited at the partnership level, and any carryover is made at that level.

All elections affecting the computation of taxable income or any credit are made by the partnership.

Capital gains

Under the bill, netting of capital gains and losses occurs at the partnership level. A partner in a large partnership takes into account separately his distributive share of the partnership's net capital gain.[6] Any excess of capital losses over capital gains, however, is not separately reported to partners; rather, such excess is carried over at the partnership level. The partnership cannot offset any portion of capital losses against ordinary income.

A partner's distributive share of the partnership's net capital gain is allocated between passive loss limitation activities and other activities. The net capital gain is allocated to passive loss limitation activities to the extent of net capital gain from sales and exchanges of property used in connection with such activities, and any excess is allocated to other activities.

Any gains and losses of the partnership under section 1231 are netted at the partnership level. Net gain is treated as long-term capital gain and is subject to the rules described above. Net loss is treated as ordinary loss and consolidated with the partnership's other taxable income.

Deductions

The bill contains two special rules for deductions. First, miscellaneous itemized deductions are not separately reported to partners. Instead, 70 percent of the amount of such deductions is disallowed at the partnership level[7] the remaining 30 percent is allowed at the partnership level in determining taxable income, and is not subject to the two-percent floor at the partner level.

Second, charitable contributions are not separately reported to partners under the bill. Instead, the charitable contribution deduction is allowed at the partnership level in determining taxable income, subject to the limitations that apply to corporate donors.

Credits in general

Under the bill, general credits are separately reported to partners as a single item. General credits are any credits other than the low-income housing credit and the reha-

bilitation credit. A partner's distributive share of general credits is taken into account as a current year general business credit. Thus, for example, the credits for clinical testing expenses and the production of fuel from nonconventional sources are subject to the present law limitations on the general business credit. The refundable credit for gasoline used for exempt purposes is allowed to the partnership, and thus is not separately reported to partners.

In recognitiion of their special treatment under the passive loss rules, the low-income housing and rehabilitation credits are separately reported.[8]

The bill imposes credit recapture at the partnership level and determines the amount of recapture by assuming that the credit fully reduced taxes. Such recapture is applied first to reduce the partnership's current year credit, if any; the partnership is liable for any excess over that amount. Under the bill, the transfer of an interest in a large partnership does not trigger recapture.

Foreign tax credit

Elections, computations and limitations regarding the foreign tax credit generally are made at the partnership level without regard to a partner's other foreign source income or foreign taxes paid. For purposes of determining foreign tax credit limitations, the partnership is treated as an individual subject to tax at a 25-percent rate. Excess credits can be carried forward at the partnership level but cannot be carried back. The foreign tax credit is reported to the partner as a general credit. The partner's distributive share of all items of income, gain, loss or deduction are treated as derived from sources within the United States.

A different rule applies if either the partnership elects, or 25 percent or more of the gross income of the partnership is derived from sources outside the United States. In such case, elections, computations and limitations are made by the partner, as under present law. The partnership reports to the partner creditable foreign taxes and the source of any income, gain, loss or deduction taken into account by the partnership. As under present law, such income is generally treated as passive for separate limitation purposes.

Tax-exempt interest

Under the bill, interest on a State or local bond is treated as taxable (and thus not separately reported) unless at the end of each quarter of the taxable year at least 50 percent of the value of partnership assets consists of State or local bonds the interest on which is exempt from taxation.

Unrelated business taxable income

The bill retains present-law treatment of unrelated business taxable income. Thus, a tax-exempt partner's distributive share of partnership items is taken into account separately to the extent necessary to comply with the rules governing such income. Under the bill, all income from a publicly traded partnership continues to be treated as unrelated business taxable income.

Passive losses

Under the bill, a partner in a large partnership takes into account separately his distributive share of the partnership's taxable income or loss from passive loss limitation activities. The term "passive loss limitation activity" means any activity which involves the conduct of a trade or business (including any activity treated as a trade or business under sec. 469(c) (5) or (6)) and any rental activity. A partner's share of a large partnership's taxable income or loss from passive loss limitation activities is treated as an item of income or loss from the conduct of a trade or business which is a single passive activity, as defined in the passive loss rules. Thus, a large partnership is not required to separately report items from multiple activities.

A partner in a large partnership also takes into account separately his distributive share of the partnership's taxable income or loss from activities other than passive loss limitation activities. Such distributive share is treated as an item of income or expense with respect to property held for investment. Thus, portfolio income (e.g., interest and dividends) is reported separately and is reduced by portfolio deductions and allocable investment interest expense.

Under the bill, income from a publicly traded partnership continues to be treated as portfolio income.

Alternative minimum tax

Under the bill, alternative minimum tax adjustments and preferences are combined at the partnership level. A large partnership would report to partners a net AMT adjustment separately computed for passive loss limitation activities and other activities. In determining a partner's alternative minimum taxable income, a partner's distributive share of any net AMT adjustment is taken into account instead of making separate AMT adjustments with respect to partnership items. Except as provided in regulations, the net AMT adjustment is determined by using the adjustments applicable to individuals, and is treated as a deferral preference for purposes of the section 53 minimum tax credit.

REMICs

For purposes of the tax on partnerships holding residual interests in REMICs, all interests in a large partnership are treated as held by disqualified organizations. Thus, a large partnership holding a residual interest in a REMIC is subject to a tax equal to the excess inclusions multiplied by the highest corporate rate.

Deferred sale treatment for contributed property

In general

For all partners contributing property to a large partnership (including partners otherwise excluded from application of the large partnership rules, as described below), the bill replaces section 704(c) with a "deferred sale" approach. Under the bill, a large partnership is treated as if it had purchased the property from the contributing partner for its then fair market value, thus taking a fair market value basis in the property. The contributing partner's gain or loss on the contribution (the "precontribution gain or loss")[9] is deferred until the occurrence of specified recognition events. In general, the character of the precontribution gain or loss is the same as if the property had been sold to the partnership by the partner at the time of contribution. The contributing partner's basis in his partnership interest is adjusted for precontribution amounts recognized under the provision. These adjustments generally are made immediately before the recognition event.

The provision effectively repeals the ceiling rule for large partnerships, i.e., the amount of precontribution gain or loss recognized by the contributing partner under the provision is not limited to the overall gain or loss from the contributed property recognized by the partnership. In addition, the amount of depreciation allowable to the partnership is not limited to the contributing partner's basis in the property.

Recognition events

Certain events occurring at either the partnership or partner level cause recognition of precontribution gain or loss. Loss is not recognized, however, by reason of a disposition to a person related (within the meaning of sec. 267(b)) to the contributing partner.

Transaction at partnership level.—The contributing partner recognizes precontribution gain or loss as the partnership claims an amortization, depreciation, or depletion deduction with respect to the property. The amount of gain (or loss) recognized equals the increase (or decrease) in the deduction attributable to changes in basis of the property occurring by reason of its contribution. Any gain or loss so recognized is treated as ordinary.

The contributing partner also recognizes precontribution gain or loss if the partnership disposes of the contributed property to a person other than the contributing partner. If such property is distributed to the contributing partner, its basis in the hands of the contributing partner equals its basis immediately before the contribution, adjusted for any gain or loss previously recognized on account of undistributed partnership property on account of a distribution to the contributing partner.[10]

Transactions at partner level.—A contributing partner recognizes precontribution gain or loss to the extent that he disposes of his partnership interest other than at death.[11] Such partner also recognizes precontribution gain or loss to the extent that the cash and fair market value of property (other than the contributed property) distributed to him exceeds the adjusted basis of his partnership interest immediately before the distribution (determined without regard to any basis adjustment under the deemed sale rules resulting from the distribution).

Election of optional basis adjustments

Under the bill, a large partnership may still elect to adjust the basis of partnership assets with respect to transferee partners. The computation of a large partnership's taxable income is made without regard to the section 743(b) adjustment. As under present law, the section 743(b) adjustment is made only with respect to the transferee partner. In addition, a large partnership is permitted to adjust the basis of partnership property under section 734(b) if property is distributed to a partner, as under present law.

Terminations

The bill provides that a large partnership does not terminate for tax purposes solely because 50 percent of its interests are sold or exchanged within a 12-month period.

Partnerships and partners subject to large partnership rules

Definition of large partnership

A "large partnership" is any partnership if the number of persons who were partners in such partnership in a taxable year was at least 250.[12] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of persons who are partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as if they had 250 partners. The election applies to the year for which made

and all subsequent years and cannot be revoked without the Secretary's consent.

A large partnership does not include any partnership if substantially all of its activities involve the performance of personal services by individuals owning, directly or indirectly, interests in the partnership, or if 50 percent or more of the value of the partnership's assets consists of oil or gas properties.

Treatment of excluded partners

In general, the large partnership rules do not apply to an excluded partner's distributive share of partnership items. An excluded partner is any partner (1) owning more that a five percent partnership interest at any time during the taxable year, or (2) materially participating in the partnership's activities during the year and holding any interest which is not a limited partnership interest. Any partner treated as an excluded partner for a taxable year so treated for all succeeding years. In determining whether a partner is an excluded partner, the treatment on the large partnership's tax return binds the partnership and the partner, but not the Secretary.

Treatment of partnerships holding oil or gas properties

As described above, the large partnership rules do not apply to a partnership if at least 50 percent of the value of its assets consists of oil or gas properties.[13] In addition, the rules do not apply to any item attributable to any partnership oil or gas property. However, oil or gas partnerships can elect to be treated as large partnerships. In addition, partnerships owning oil or gas properties but which otherwise qualify as large partnerships (i.e., because less than 50 percent of their assets consists of oil or gas properties) can elect to apply the large partnership rules to items attributable to their oil or gas properties. If either type of partnership makes an election, (1) depletion is computed without regard to percentage depletion, (2) any partner who is an integrated oil company is treated as an excluded partner, and (3) any partner who holds a working interest in an oil or gas property (either directly or through an entity which does not limit the partner's liability) is treated as an excluded partner with respect to such interest. The election applies to the year for which made and all subsequent years, and cannot be revoked without the Secretary's consent.

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe such regulations as may be appropriate to carry out the purposes of the provisions.

Effective Date

The provisions generally apply to partnership taxable years ending on or after December 31, 1992. The deferred sale provision applies to any contribution of property (other than cash) made on or after January 1, 1992, to a partnership which is, or is reasonably expected to become, a large partnership.

2. Simplified audit procedures for large partnerships (sec. 202 of the bill and secs. 6240, 6241, 6242, 6245, 6246, 6247, 6249, 6251, 6252, 6255, and 6256 of the Code).

Present Law

In general

Prior to 1982, a partnership (regardless of its size) was audited only by auditing each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the determination of all "partnership items" at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax Matters Partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impracticable to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to partners whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

Reasons for Simplification

Present audit procedures for large partnerships are inefficient and more complex than those for other large entities. The IRS must assess any deficiency arising from a partnership audit against a large number of partners, many of whom cannot easily be located (some may no longer be partners). In addition, audit procedures are cumbersome and can be complicated further by the intervention of partners acting individually.

Explanation of Provision

In general

The bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships are large partnerships for the audit rules that are not subject to the large partnership reporting requirements.[14]

As under present law, large partnerships and their partners are subjected to unified audit rules. Partnership items are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners will adjust their current-year share of partnership items of income, gains, losses, deductions, or credits to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest individual or corporate tax rate. A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $600, apart from any interest or penalty. (The $1,000 adjustment for the improper deduction is offset by $400 of adjustments for amortization deductions.) The year 4 partners would be required ratably to include an additional $600 in income for that year.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed

underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to the extent necessary to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large parnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike present law, however, partners will have no right individually to participate in settlement conferences or to request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS' designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, and substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

3. Partnership returns on magnetic media (sec. 203 of the bill and sec. 6011 of the Code)

Present Law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Reasons for Simplification

Most entities that file large numbers of documents with the Internal Revenue Service must do so on magnetic media. Conforming the reporting provisions for large partnerships to the generally applicable information reporting rules will facilitate integration of partnership information into already existing data systems.

Explanation of Provision

The bill authorizes the Internal Revenue Service to require large partnerships, and other partnerships with 250 or more partners, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

B. Partnership Proceedings Under TEFRA [15]

1. Clarify the treatment of partnership items in deficiency proceedings (sec. 211 of the bill and sec. 6234 of the Code)

Present Law

TEFRA partnership proceeding must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro* v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items there were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnerhip items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

Reasons for Simplification

The opinion in *Munro* creates problems for both taxpayers and the IRS. For example, a taxpayer would be harmed in the case where he has invested in a TEFRA partnership and is also subject to the deficiency procedures with respect to nonpartnership item adjustments, since computing the tax liability without regard to partnership items will have the same effect as if the partnership items were disallowed. If the partnership items were losses, the effect will be a greatly increased deficiency for the nonpartnership items. If, when the partnership proceeding is completed, the taxpayer is ultimately allowed any part of the losses, the taxpayer will receive part of the increased deficiency back in the form of an overpayment. However, in the interim, the taxpayer will have been subject to assessment and collection of a deficiency inflated by items still in dispute in the partnership proceeding. In essence, a taxpayer in such a case would be deprived of a prepayment forum with respect to the partnership item adjustments. The IRS would be harmed if a taxpayer's income is primarily from a TEFRA partnership, since the IRS may be unable to adjust nonpartnership items such as medical expense deductions, home mortgage interest deductions or charitable contribution deductions because there would be no deficiency since, under *Munro*, the income must be ignored.

Explanation of Provision

The bill is intended to overrule *Munro* and allow the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayers's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appro-

priate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

2. Permit the IRS to rely on partnership returns to determine the proper audit procedures (sec. 212 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership items is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The IRS often finds it difficult to determine whether to follow the TEFRA partnership procedures or the regular deficiency procedures. If the IRS determines that there were fewer than 10 partners in the partnership but was unaware that one of the partners was a nonresident alien or that there was a special allocation made during the year, the IRS might inadvertently apply the wrong procedures and possibly jeopardize any assessment. Permitting the IRS to rely on a partnership's return would simplify the IRS task.

Explanation of Provision

The bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS' reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

3. Suspend statute of limitations during bankruptcy proceedings (sec. 213 of the bill and sec. 6229 of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

Reasons for Simplification

The ambiguity in present law makes it difficult for the IRS to adjust partnership items that convert to nonpartnership items by reason of a partner going into bankruptcy. In addition, any uncertainty may result in increased requests for the bankruptcy court to lift the automatic stay to permit the IRS to make an assessment with respect to the converted items.

Explanation of Provision

The bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

4. Expand small partnership exception from TEFRA (sec. 214 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The mere existence of a C corporation as a partner or of a special allocation does not warrant subjecting the partnership and its partners of an otherwise small partnership to the TEFRA procedures.

Explanation of Provision

The bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

5. Exclude partial settlements from 1-year assessment rule (sec. 215 of the bill and sec. 6229(f) of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231 (b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

Reasons for Simplification

When a partial settlement agreement is entered into, the assessment period for the items covered by the agreement may be different than the assessment period for the remaining items. This fractured statute of limitations poses a significant tracking problem for the IRS and necessitates multiple computations of tax with respect to each partner's investment in the partnership for the taxable year.

Explanation of Provision

The bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

6. Extend time for filing a request for administrative adjustment (sec. 216 of the bill and sec. 6227 of the Code)

Present Law

The non-TEFRA statute of limitations provides that if a statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provison for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

Reasons for Simplification

The absence of an extension for filing refund claims in TEFRA proceedings hinders taxpayers that may want to agree to extend the TEFRA statute of limitations but want to preserve their option to file a refund claim later.

Explanation of Provision

The bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims until 6 months after the expiration of the limitations period for assessments.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the

Tax Equity and Fiscal Responsibility Act of 1982.

7. Provide innocent spouse relief for TEFRA proceedings (sec. 217 of the bill and sec. 6230 of the Code)

Present Law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

Reasons for Simplification

Providing a forum in which to raise the innocent spouse defense with respect to liabilities attributable to adjustments to partnership items (including penalties, additions to tax and additional amounts) would make the innocent spouse rules more uniform.

Explanation of Provision

The bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

8. Determine penalties at the partnership level (sec. 218 of the bill and sec. 6221 of the Code)

Present Law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

Reasons for Simplification

Many penalties are based upon the conduct of the taxpayer. With respect to partnerships, the relevant conduct often occurs at the partnership level. In addition, applying penalties at the partnership level through the deficiency procedures following the conclusion of the unified proceeding at the partnership level increases the administrative burden on the IRS and can significantly increase the Tax Court's inventory.

Explanation of Provision

The bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective Date

The provision is effective for partnership taxable years ending after December 31, 1991.

9. Clarify jurisdiction of the Tax Court (sec. 219 of the bill and secs. 6225 and 6226 of the Code)

Present Law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

Reasons for Simplification

Clarifying the Tax Court's jurisdiction simplifies the resolution of tax cases.

Explanation of Provision

The bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a party to appear before a court for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

10. Treatment of premature petitions filed by certain partners (sec. 220 of the bill and sec. 6226 of the Code)

Present Law

The Tax Matters Partner is given the exclusive right to file a petition for readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

Reasons for Simplification

A petition that is filed within the 90-day period by a person who is not the Tax Matters Partner is dismissed. Thus, if the Tax Matters Partner does not file a petition within the 90-day period and no timely and valid petition is filed during the succeeding 60-day period, judicial review of the adjustments set forth in the notice of FPAA is foreclosed and the adjustments are deemed to be correct.

Explanation of Provision

The bill treats premature petitions filed by certain partners within the 90-day period will be treated as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective Date

The bill is effective with respect to petitions filed after the date of the enactment of this Act.

11. Clarify bond requirement for appeals from TEFRA proceedings (sec. 221 of the bill and sec. 7485 of the Code)

Present Law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

Reasons for Simplification

The Tax Court cannot easily determine the aggregate changes in tax liability of all of the partners in a partnership who will be affected by the Court's decision in the proceeding. Clarifying the calculation of the bond amount would simplify the Tax Court's task.

Explanation of Provision

The bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership).

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

12. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements (sec. 222 of the bill and sec. 6601 of the Code)

Present Law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

Reasons for Simplification

Processing settlement agreements and assessing the tax due takes a substantial amount of time in TEFRA cases. A taxpayer is not afforded any relief from interest during this period.

Explanation of Provision

The bill suspends interest where there is a delay in a computational adjustment resulting from TEFRA settlements.

Effective Date

The provision is effective with respect to settlements entered into after December 31, 1991.

TITLE III.—FOREIGN PROVISIONS

1. Deferral of tax on income earned through foreign corporations and exceptions to deferral (secs. 301–304 of the bill and secs. 453, 532, 535, 542, 543, 551–558, 563, 954, 1246–1247, and 1291–1297 of the Code)

Present Law

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") are taxed currently by the United States on their worldwide income, subject to a credit against U.S. tax on foreign income based on foreign income taxes paid with respect to such income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates that income by payment to its U.S. stockholders. The U.S. stockholders are subject to U.S. tax on the repatriated income at that time. Foreign tax credits may reduce the U.S. tax.

Since 1937, the Code has set forth one or more regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation. These regimes currently include the controlled foreign corporation (or subpart F) rules (secs. 951–964); the foreign personal holding company rules (secs. 551–558); passive foreign investment company (PFIC) rules (secs. 1291–1297); the personal holding company rules (secs. 541–547); the accumulated earnings tax (secs. 531–537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). These regimes have multiple and overlapping application to foreign corporations owned in whole or in part by U.S. persons.

Reasons for Simplification

Some of the different anti-deferral regimes were enacted or modified at different times and reflect historically different Congressional policies. Different regimes provide different thresholds (either by type of income or asset at the foreign corporation level, or of U.S. stock ownership at the shareholder level) to their application. They provide for different mechanisms by which U.S. stockholders are denied the benefits of deferral. Some of the regimes have features directed at policy goals applicable to foreign corporation owned by U.S. corporations (e.g., the allowance of indirect foreign tax credits); others have features primarily directed at issues applicable to foreign corporations owned by U.S. individuals (e.g., the basis of property acquired from a decedent). Some regimes preserve the character of the income earned in the hands of a foreign corporation while others do not. Some provide for movement of losses between years of a single foreign corporation or between multiple corporations while others do not. While a consistent theme of these regimes is to provide current taxation for certain types of interest, dividend, rental royalty, and other similar income, the different regimes apply different criteria to these items of income to determine their current inclusion or noninclusion. Different regimes have different ordering rules for determining which dividends from foreign corporations subject to the regimes are subject to tax on repatriation and which are simply distributions of previously taxed income.

Simply because of the differences among the various anti-deferral regimes, U.S. taxpayers frequently are faced with the need to consult multiple sets of anti-deferral rules when they hold stock in a foreign corporation.

Moreover, the interactions of the rules cause additional complexity. There is significant overlap among the several regimes. This overlap requires the Code to provide specific rules of priority for income inclusions among the regimes, as well as additional coordination provisions pertaining to other operational differences among the several regimes. The overlapping or multiple application of anti-deferral regimes to a single corporation can result in significant additional complexity with little or no ultimate tax consequences.

Consolidation of the several anti-deferral regimes can achieve two major types of simplification. First, by reducing the number of separate definitions of entities among the anti-deferral regimes, taxpayers can be spared the burden of understanding and complying with a multiplicity of separate anti-deferral corporation with separate definitions and requirements.

Second, from an operational perspective, the number of anti-deferral regimes that can apply to any one shareholder in a foreign corporation can be reduced to one. As discussed above, the operational differences, including the overlapping applicability of the six present-law anti-deferral regimes, is a source of complexity. Under a consolidated corporation, is a source of complexity. Under a consolidated regime, however, deferral can be denied for many corporations (whether in full or in part) solely through the provisions of subpart F. In the case of a controlled foreign corporation, for example, being subject to the rules for full denial of deferral (such as the PFIC of foreign personal holding company provisions under present law) can result in no additional compliance burdens or administrative or operational complexity.

Another source of complexity under present law is the need for shareholders of controlled foreign corporations to make "protective" current-inclusion elections in order to avoid adverse future consequences under the interest-charge method should the controlled foreign corporation also prove to be a PFIC.[16] By replacing elective current-inclusion treatment for PFICs that are also controlled foreign corporations by mandatory current inclusion through subpart F for passive foreign corporations that are also controlled foreign corporations, a consolidated regime can eliminate both the burdens of making protective elections and the risks of failing to do so.

It is understood that the interest-charge method of the present-law PFIC rules is a significant source of complexity both separately and in its interaction with other provisions of the Code. Even without eliminating the interest-charge method, significant simplification can be achieved by minimizing the number of taxpayers that may be subject to the method and by making certain modifications that may reduce the complexity engendered by the interest-charge method.

Explanation of Provision

In general

The bill replaces the separate anti-deferral regimes of present law with a unified set of rules providing for either partial or full elimination of deferral depending on the circumstances. The bill preserves the present-law approach under which partial current taxation is a function of the type of income earned by the foreign corporation and a level of U.S. ownership in the corporation exceeding some threshold (as currently embodied in subpart F). The bill also preserves the present-law approach under which full current taxation is a function of a type of income or assets of the corporation exceeding some threshold (as currently embodied in subpart F, the PFIC rules, and the foreign personal holding company rules). The bill eliminates regimes that are redundant or marginally applicable, and ensures that no more than one set of rules will ever apply to a shareholder's interest in any one corporation in any one year.

Generally, the bill retains the subpart F rules as the foundation of its unified anti-deferral regime (with certain modifications described below and also in item 2., following, describing secs. 311–313 of the bill). It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other. The bill's unified anti-deferral regime sets forth various thresholds for subjecting U.S. persons to full or partial inclusions of corporate income. In addition, where deferral is eliminated by U.S. shareholder inclusions of foreign corporate-level income, the bill applies a single set of rules (the subpart F rules) for basis adjustments, characterization of actual distributions, foreign tax credits, and similar issues. As under present law, the bill in some cases affords U.S. persons owning stock in foreign corporations a choice of technique for recognizing income from the elimination of deferral. However, in a greater number of cases than under present law, the bill provides only one method of eliminating deferral.

Replacement of current law regimes for full elimination of deferral

The bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to rules under the existing systems. The following discussion explains the differences between the PFIC provisions of present law and the PFC provisions that will be applicable under the bill.

A PFC is any foreign corporation if (1) 60 percent or more of its gross income is passive income, (2) 50 percent or more of its assets (on average during the year, measured by value) produce passive income or are held for the production of passive income, or (3) it is registered under the Investment Company Act of 1940 (as amended) either as a management company or as a unit investment trust.[17] As under the PFIC rules, the foreign corporation is permitted to elect to measure its assets based on their adjusted basis rather than their value.

As under present law, passive income for this purpose is defined in the bill generally as any income of a kind which would be foreign personal holding company income as defined in section 954(c), subject to the current law exceptions for banking and insurance income and the current look-through rules for certain payments from related persons (current sec. 1296(b)(2)).[18] In addition, the bill provides two clarifications to present law. First, the bill clarifies that, as indicated in the legislative history of the 1988 Act, the same-country exceptions from the definition of foreign personal holding company income in section 954(c) are disregarded.[19] Second, the bill clarifies that any foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC definition (*cf.* sec. 951(e)).

The bill modifies the present law application of the asset test by treating certain leased property as assets held by the foreign corporation for purposes of the PFC asset test. This rule applies to tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at last 12 months.

The bill also modifies the present law rules that provide an exception from the definition of a PFIC in the case of a company changing businesses. Under the bill, if a foreign corporation holds 25 percent or more of the stock of a second corporation that qualifies for the change-of-business exception (current sec. 1297(b)(3)), then in applying the look-through rules (current sec. 1296(c)), the first corporation may treat otherwise passive assets or income of the second corporation as active.[20]

The bill generally retains those provisions of current law the application of which depends upon whether a foreign corporation was a PFIC for years after 1986 (e.g., current sec. 1291(d)), but modifies these provisions to test whether the foreign corporation was a PFC for years after 1986. As a transitional definition, the bill provides that a foreign corporation that was treated as a PFIC for any taxable year beginning before the introduction of the bill is treated as having been a PFC for each such year.

The bill provides a new election that will allow certain passive foreign corporations to be treated as domestic corporations. A foreign corporation is eligible to make this election if (1) it would qualify for treatment as a regulated investment company (RIC) under the releveant provisions of the Code if it actually were a domestic corporation, (2) it meets such requirements as the Secretary

may prescribe to ensure the collection of taxes imposed by the Internal Internal Revenue Code on the passive foreign corporation, and (3) the electing passive foreign corporation waives all benefits which are granted by the United States under any treaty (including treaties other than tax treaties) and to which the corporation is otherwise entitled by reason of being a resident of another country. The rules governing such an election will be similar to those applicable to the election by a foreign insurance company to be treated as a domestic corporation under section 953(d).

The bill provides a special rule regarding the application of the PFC rules to tax-exempt organizations that own stock in passive foreign corporations. The passive foreign corporation rules, under the bill, have no application at all to any organization exempt from tax under section 501, unless the organization is subject to unrelated business income taxation on its investment income under section 512(a)(3) of the Code. In the case of a tax-exempt organization that is subject to tax on its investment income, the PFC rules apply with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if the organization were fully taxable.

Tax treatment under full elimination of deferral

The benefits of deferral are eliminated with respect to the income of a PFC under three alternative methods: current inclusion, mark-to-market, or interest charge on excess distributions.

Current inclusion method

Mandatory current inclusion.—If a passive foreign corporation is U.S. controlled, the bill will subject every U.S. person owing (directly or indirectly) stock in the PFC to income inclusions under a modified version of the controlled foreign corporation rules. If a PFC is not U.S. controlled, every U.S. persons owning (directly or indirectly) 25 percent or more of the vote or value of the stock of the PFC will be subject to the same rules. Under the bill, the entire gross income of the passive foreign corporation (subject to applicable deductions) is treated as foreign personal holding company income, and thus is included (net of appropriate deductions) on a pro rata basis in the income of each U.S. person directly or indirectly owning stock in the PFC, under a modified application of the rules of sections 951 and 961. Actual distributions of earnings by such a PFC are treated similarly to distributions of previously taxed income under sections 959 and 961. These rules supersede all application of the present-law rules applicable to foreign personal holding companies, under which earnings are deemed distributed and then contributed to the capital of the foreign personal holding company.

In applying the subpart F inclusion rules to PFC inclusions, the bill departs from subpart F in that foreign personal holding company income is included in the income of U.S. persons without regard to otherwise applicable reductions pursuant to the high-tax exception (under sec. 954(b)(4)) or the export trade corporation rules (secs. 970 and 971). This modification to the application of the controlled foreign corporation rules preserves present law in that no high-tax exception generally is available to PFICs or foreign personal holding companies, and that the PFIC provisions apply in full force to export trade corporations.

A passive foreign corporation is treated under the bill as U.S. controlled for this purpose either if it would be treated as a controlled foreign corporation under the rules of subpart F, or if, at any time during the taxable year, more than 50 percent of the vote or value of the corporation's stock were owned directly or indirectly by five or fewer U.S. persons (including but not limited to individuals, and including all U.S. citizens regardless of their residence). Indirect stock ownership under the bill generally refers to stock ownership through foreign entities within the meaning of section 958(a)(2). In addition, for the purpose of determining whether a foreign corporation is U.S. controlled by virtue of the ownership of more than 50 percent of its stock by five or fewer U.S. persons, the constructive ownership principles of the present-law foreign personal holding company rules apply.

Elective current inclusion.—A U.S. person not subject to the above mandatory current inclusion rules—that is, a U.S. person owning less than 25 percent of the stock in a PFC that is not U.S. controlled—may elect application of those rules. As under current law, the PFC is characterized as a "qualified electing fund" with respect to such a U.S. person. In the application of the elective current-inclusion rules, the passive foreign corporation is treated as a controlled foreign corporation with respect to the taxpayer, and the taxpayer is treated as a U.S. shareholder of the corporation. For foreign tax credit purposes, amounts included in the taxpayer's gross income under this modified application of the controlled foreign corporation rules are treated as dividends received from a foreign corporation which is not a controlled foreign corporation.

The application and operation of the shareholder-level election for treatment as a qualified electing fund generally are the same as under the present-law PFIC rules. It is intended that, in the case of PFC stock owned through a foreign partnership, a partner-level election for treatment as a qualified electing fund will be permitted (except in the case of a foreign partnership that is subject to the simplified reporting rules available to certain large partnerships under title II of the bill).

Mark-to-market method

Less-than-25-percent shareholders of passive foreign corporations that are not U.S.-controlled, and who do not elect current inclusion ("nonelecting shareholders"), are subject under the bill to one of two methods for taxing the economic equivalent of the PFC's current income: the mark-to-market method or the interest-charge method.

Under the bill, nonelecting shareholders of a PFC with marketable stock are required to mark their PFC shares to market annually. Under the mark-to-market method, the U.S. person is required to include in gross income each taxable year an amount equal to the excess (if any) of the fair market value of the PFC stock as of the close of the taxable year over the adjusted basis of the stock. In the event the adjusted basis of the stock exceeds its fair market value, the U.S. person is allowed a deduction for the taxable year equal to the lesser of the amount of the excess or the "unreversed inclusions" with respect to the stock. The bill defines the term "unreversed inclusions" to mean, with respect to any stock in a passive foreign corporation, the excess (if any) of the total amount of mark-to-market gains with respect to the stock included by the taxpayer for prior taxable years, over the amount of mark-to-market losses with respect to such stock that were allowed as deductions for prior taxable years.

The adjusted basis of stock in a passive foreign corporation is increased by the amount of mark-to-market gain included in gross income, and is decreased by the amount of mark-to-market losses allowed as deductions with respect to such stock. In the case of stock owned indirectly by the U.S. person, such as through a foreign partnership, foreign estate or foreign trust (as discussed below), the basis adjustments for mark-to-market gains and losses apply to the basis of the PFC stock in the hands of the intermediary owner, but only for purposes of the subsequent application of the PFC rules to the tax treatment of the indirect U.S. owner. In addition, similar basis adjustments are made to the adjusted basis of the property actually held by the U.S. person by reason of which the U.S. person is treated as owning PFC stock.

All amounts of mark-to-market gain on PFC stock, as well as gain on the actual sale or distribution of PFC stock, are treated as ordinary income. Similarly, ordinary loss treatment applies to the deductible portion of any mark-to-market loss on PFC stock, as well as to any loss realized on the actual sale or other disposition of PFC stock to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to that stock. These loss deductions are treated as deductions allowable in computing adjusted gross income.

The source of any amount of mark-to-market gain on PFC stock is determined in the same manner as if the amount of income were actual gain from the sale of stock in the passive foreign corporation. Similarly, the source of any amount allowed as a deduction for mark-to-market loss on PFC stock is determined in the same manner as if that amount were an actual loss incurred on the sale of stock in the passive foreign corporation.

The mark-to-market method under the bill only applies to passive foreign corporations the stock of which is "marketable." PFC stock is treated as marketable if it is regularly traded on a qualified exchange, whether inside or outside the United States. An exchange qualifies for this treatment if it is a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or if the Secretary is satisfied that the requirements for trading on that exchange ensure that the market price on that exchange represents a legitimate and sound fair market value for the stock. It is intended that the Secretary may adopt a definition of the term "regularly traded" that differs from definitions provided for other purposes under the Code. Further, it is intended that the Secretary not be bound by definitions applied for purposes of enforcing other laws, including Federal securities laws. Similarly, in identifying qualified foreign exchanges for these purposes, it is intended that the Secretary not be required to include exchanges that satisfy standards established under Federal securities laws and regulations. PFC stock is also treated as marketable, to the extent provided in Treasury regulations, if the PFC continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value in a manner comparable to a U.S. regulated investment company (RIC).

In addition, the bill treats as marketable any stock in a passive foreign corporation that is owned by a RIC that continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value. It is believed that the

RIC's determination of PFC stock value for this non-tax purpose would ensure a sufficiently accurate determination of the fair market value of PFC stock owned by the RIC. The bill also treats as marketable any stock in a passive foreign corporation that is held by any other RIC, except to the extent provided in regulations. It is believed that even for RICs that do not make a market in their own stock, but that do regularly report their net asset values in compliance with the securities laws, inaccurate valuations may bring exposure to legal liabilities, and this exposure may ensure the reliability of the values such RICs assign to the stock they hold in PFCs. However, it is intended that Treasury regulations will disallow mark-to-market treatment for nonmarketable stock held by any RIC that is not required to perform such a net asset valuation at the close of each taxable year, that does not publish such a valuation, or that otherwise does not provide what the Secretary regards as sufficient indicia of the reliability of its valuations under the relevant circumstances.

The bill coordinates the application of the mark-to-market method with the tax rules generally applicable to RICs. The bill treats mark-to-market loss on PFC stock as a dividend for purposes of both the 90-percent investment income test of section 851(b)(2) and the 30-percent short-short limitation of section 851(b)(3).

The mark-to-market method does not apply to the stock of a U.S. person in any PFC that is U.S. controlled (as discussed above), to the stock of a person choosing qualified electing fund treatment, or to stock of a U.S. person who is a 25-percent shareholder (as defined above).

In the case of a controlled foreign corporation (including a passive foreign corporation that is treated under the bill as a controlled foreign corporation) that owns or is treated as owning stock in a passive foreign corporations, the mark-to-market method generally is applied as if the controlled foreign corporation were a U.S. person. For purposes of the application of subpart F to the controlled foreign corporation, mark-to-market gains are treated as if they were foreign personal holding company income of the character of dividends, interest, royalties, rents or annuities, and allowable deductions for mark-to-market losses are treated as deductions allocable to that category of foreign personal holding company income. The source of such income or loss, however, is determined by reference to the actual (foreign) residence of the controlled foreign corporation.

For purposes of the mark-to-market method, any stock in a passive foreign corporation that is owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate is treated as if it were owned proportionately by its partners or beneficiaries.[21] Stock in a passive foreign corporation that is thus treated as owned by a person is treated as actually owned by that person for the purpose of applying the constructive ownership rule at another level. In the case of a U.S. person who is treated as owning stock in a passive foreign corporation by application of this constructive ownership rule, any disposition by the U.S. person or by any other person that results in the U.S. person being treated as no longer owning the stock in the passive foreign corporation, as well as any disposition by the person actually owning the stock of the passive foreign corporation, is treated under the bill as a disposition by the U.S. person of stock in the passive foreign corporation.

Interest-charge method

Nonelecting shareholders[22] of a PFC with stock that is not marketable are subject to the interest-charge method, based on the PFIC interest-charge method that is currently provided in Code section 1291, with certain modifications.

First, although allowable foreign tax credits may reduce a U.S. person's net U.S. tax liability on an excess distribution, the interest charge computed on that excess distribution is computed, under the bill, without regard to reductions in net U.S. tax liability on account of direct foreign tax credits.

The PFIC provisions of present law, to the extent provided in regulations, impose recognition of gain in the case of a transfer of PFIC stock in a transaction that would otherwise qualify for the nonrecognition provisions of the Code. The bill imposes that result as a general rule, except as otherwise provided in Treasury regulations. In addition, the bill requires that proper adjustment be made to the basis of property, held by the U.S. person, through which the U.S. person is treated as owning stock in the passive foreign corporation.

The PFIC provisions of present law apply rules for the attribution of ownership of PFIC stock to U.S. persons, including a rule that attributes PFIC stock owned by a corporation to any peson who owns, directly or indirectly, 50 percent or more of the value of the stock of the corporation. Under the bill, the 50-percent threshold applies not only to stock owned directly or indirectly, but also to stock treated as owned by application of the family attribution rules of the personal holding company provisions (sec. 544(c)(2)).

The PFIC provisions of present law provide special rules for the application of the interest-charge method in the case of PFIC stock held by an U.S. person through an intermediary entity. These rules describe the dispositions that are treated as dispositions of PFIC stock by the U.S. person, and include rules to eliminate the possibility of double taxation (sec. 1297(b)(5)). The bill clarifies that these rules apply to any transaction that results in the U.S. person being treated as no longer owning the PFC stock, as well as any disposition of the PFC stock by the entity actually owning the PFC stock. These rules apply regardless of whether the transaction involves a disposition of the PFC stock, and regardless of whether the parties to the transaction include the U.S. person, the entity actually owning the PFC stock, or some other entity. For example, these rules apply to the issuance of additional stock by an intermediary corporation to an unrelated party in a case where, by increasing the total outstanding stock of the intermediary corporation, the transaction causes the U.S. person to fall below the ownership threshold for indirect ownership of the PFC stock. The bill also clarifies that an income inclusion under the interest-charge method takes precedence over an income inclusion under subpart F resulting from the same disposition. The second clarification ensures that the interest charge is imposed without regard to the structure of the transaction.

Under the bill, the interest-charge method applies to any stock in a passive foreign corporation unless either the stock is marketable (and therefore the mark-to-market method applies) as of the time of the distribution or disposition involved, or the stock in the passive foreign corporation was subject to the current inclusion method (under the bill or under prior law) for each taxable year beginning after December 31, 1986 which includes any portion of the taxpayer's holding period in the PFC stock. In the event that PFC stock, not subject to the current inclusion method, becomes marketable during the taxpayer's holding period, the interest-charge method applies to any distributions and dispositions during the year in which the stock becomes marketable, as well as to the mark-to-market gain (if any) as of the close of that year. In the event that PFC stock was initially marketable, and later becomes unmarketable and subject to the interest-charge method, the taxpayer's holding period in the PFC stock for purposes of the interest-charge method is treated as beginning on the first day of the first taxable year beginning after the last taxable year for which the mark-to-market method applies to the taxpayer's stock in the PFC.

Under the bill, as under the present-law PFIC rules, stock in a foreign corporation generally is treated as PFC stock if, at any time during the taxpayer's holding period of that stock, the foreign corporation (or any predecessor) is a passive foreign corporation subject to the interest-charge method (current sec. 1297(b)(1)). (This rule is sometimes referred to as the "once-a-PFIC-always-a-PFIC" rule.) Under present law this rule generally does not affect a taxpayer holding stock in a foreign corporation if at all times during the holding period of the taxpayer with respect to the stock when the foreign corporation (or any predecessor) is a PFIC, qualified electing fund treatment applies with respect to the taxpayer. Under the bill, the similar once-a-PFC-always-a-PFC rule does not apply if during the taxpayer's entire holding period with respect to the stock when the foreign corporation (or any predecessor) is a PFC, either (a) mark-to-market treatment applies, (b) mandatory current inclusion of income applies (either because the corporation is U.S. controlled or because the taxpayer is a 25-percent shareholder), or (c) elective current inclusion of income applies. Thus, for example, a shareholder of a controlled foreign corporation is subject to current inclusion with respect to all the corporation's income in any year for which the corporation is a PFC, but is subject to current inclusion only to the extent provided under subpart F in any year for which the controlled foreign corporation is not a PFC.

The bill also provides for full basis adjustment for partnerships and S corporations that own stock in a passive foreign corporation subject to the interest-charge method. Although tax is imposed on a distribution or disposition under the interest-charge method without including the distribution or disposition in gross income, thus precluding the natural basis adjustments for amounts included in gross income, the bill grants regulatory authority for appropriate basis adjustments to partnerships and S corporations based on the amount of income subject to tax under the interest-charge method and thereby excluded from gross income.

The bill also includes a special rule to coordinate the application of the interest-charge method to nonelecting shareholders of a passive foreign corporation who are or were residents of Puerto Rico. Under the bill, no interest charge is applicable to amounts of an excess distribution that, were the amounts actually earned in the year to which they are treated as earned under the interest-charge method, would have been eligible for the exclusion under section 933 (for income derived by residents of Puerto Rico from sources within Puerto Rico).

The bill includes a broad grant of regulatory authority, as does the present-law

PFIC statute. However, the bill specifies that necessary or appropriate regulations under the PFC rules may include regulations providing that gross income should be determined without regard to the operation of the interest-charge method for such purposes as may be specified in the regulations. This permits the Secretary to relieve pressure on many aspects of the Code that result from the operation of the interest-charge method other than through gross income. In addition, the bill specifies that necessary or appropriate PFC regulations may include regulations dealing with changes in residence status by shareholders in passive foreign corporations (e.g., a resident alien becoming a nonresident, or a U.S. citizen becoming a resident of Puerto Rico).

Modification or repeal of other antideferral regimes

While the bill includes in the passive foreign corporation rules most of the provisions that it preserves from the present-law PFIC, foreign personal holding company, and foreign investment company regimes, the bill modifies subpart F in one respect to reflect a present-law provision of the foreign personal holding company rules (sec. 553(a)(5)). The bill treats as foreign personal holding company income for subpart F purposes an amount received under a personal service contract if a person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract. The bill similarly treats as foreign personal holding company income for subpart F purposes any amount received from the sale or distribution or disposition of such a contract. This rule applies only if at some time during the taxable year 25 percent or more of the value of the corporation's stock is owned (directly, indirectly, or constructively) by or for the individual who may be designated to perform the services.[23] Income from such personal service contracts is not, however, treated as passive for foreign tax credit purposes.

The bill repeals the foreign personal holding company provisions, the PFIC provisions (except as modified and preserved as the passive foreign corporation provisions), and the foreign investment company provisions. The bill also excludes all foreign corporations from the application of the accumulated earnings tax and the personal holding company tax. It is understood that the purposes of all the anti-deferral regimes are adequately served by the passive foreign corporation provisions as set forth in the bill, in conjunction with the controlled foreign corporation provisions as modified by the bill.

In addition, the bill denies installment sales treatment for any installment obligation arising out of a sale of stock in a passive foreign corporation. This will prevent shareholders in passive foreign corporations from avoiding the interest charge by means of an installment sale of their PFC stock.

Effective Date

The bill generally is effective for taxable years of U.S. persons beginning after December 31, 1991, and taxable years of foreign corporations ending with or within such taxable years of U.S. persons.

The denial of installment sales treatment is effective for sales or dispositions after December 31, 1991.

The bill does not affect the determination of the basis of stock in a PFIC that was acquired from a decedent in a taxable year beginning before January 1, 1991.

2. Modifications to provisions affecting controlled foreign corporations (secs. 311, 312, and 313 of the bill and secs. 951, 952, 959, 960, 961, 964, and 1248 of the Code)

Present Law

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusions for the U.S. shareholder that is treated as income in the same limitation category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, there is no provision that adjusts the basis of the upper-tier controlled foreign corporation's stock of the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation in the middle of the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person besides the acquirer with respect to that stock. The reduction is determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)). Thus, a portion of the foreign taxes paid or accrued by the foreign corporation and not previously deemed paid by the domestic corporation are treated as paid by the domestic corporation under the principles of section 902 even though the domestic corporation recognizes no income in the current taxable year with respect to the distribution.

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled for-

eign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Reasons for Simplification

It is believed that complexities have been caused by uncertainties and gaps in the statutory schemes for taxing gains on dispositions of stock in controlled foreign corporations as dividend income or subpart F income. These uncertainties and gaps may prompt taxpayers to refrain from behavior that would otherwise be the result of rational business decisions, for fear of excessive tax—for example, double corporate-level taxation of income. In many cases, concerns about excessive taxation can be allayed, but only at the cost of avoiding the simpler and more rational economic behavior in favor of tax-motivated planning.

It is understood that, as a general matter, other aspects of the tax system may have interfered with rational economic decision making by prompting taxpayers to engage in tax-motivated planning in order to eliminate taxation in cases where income is in fact earned. Some such characteristics of the tax system have in the past been altered by Congress in order to reduce excessive interference by the tax system in labor, investment, and consumption decisions of taxpayers.[24] It is believed that in the context of this simplification bill, it generally is appropriate to reduce complexities caused by aspects of the rules governing controlled foreign corporations that provide for nonuniform tax results from dividends, on the one hand, and stock disposition proceeds to the extent earnings and profits underlie those proceeds, on the other.

It is understood that the present-law provisions which permit an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed in the event of a distribution of previously taxed earnings by a controlled foreign corporation are particularly difficult to administer. This difficulty arises because taxpayers are required to compute and keep track of excess foreign tax credit limitation accounts with respect to subpart F income inclusions on a foreign corporation by foreign corporation basis, as well as on a year by year basis. Additional complexities arise as taxpayers are required, as a result of distributions, to trace earnings and profits up chains of foreign corporations. It is believed that retention of these rules may not be worth the system-wide recordkeeping and computations involved. It is believed that the combination of foreign income tax rates on the foreign income of U.S. persons and their controlled foreign corporations, and the U.S. rules for taxing such income, will result in few cases where the effort will be rewarded by substantial tax savings. Moreover, it is believed that taxpayers who might be adversely affected may be able to plan around those adverse effects at least cost than the complexity cost that is engendered by the present system.

Explanation of Provisions

In general

The bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The bill contains two additional provisions related to controlled foreign corporations. First, the bill repeals the provision that currently permits an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Second, the bill clarifies the effect of the treaty exemption or reduction of the branch profits tax on the determination of subpart F income.

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. However, this rule does not affect the determination of whether the second corporation is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the bill, any gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder. As another example, assume that the U.S. corporation has always owned 51 percent of the stock of a foreign corporation, which has always owned 51 percent of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by other foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assets in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

Adjustments to basis of stock

The bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later sold by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments now provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later sale, it is intended that by regulation the subpart F income from gain on the sale of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

Subpart F inclusions in year of disposition

Where a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during the middle of a year in which the controlled foreign corporation earns subpart F income, the bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced would (as is currently the case where a dividend was paid to the previous owner of the stock) not exceed the subpart F inclusion for that year times the proportion of the year for which the acquirer did not own the stock.

Avoiding double inclusions in other cases

The bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances.

Foreign tax credit in year of receipt of previously taxed income

The bill repeals the rules that permit an indirect foreign tax credit to be claimed with respect to a distribution of previously taxed earnings and profits. Under the bill, foreign taxes paid by a foreign corporation with re-

spect to previously taxed earnings and profits remain in that corporation's pool (or pools) of foreign taxes which are available for the indirect foreign tax credit upon subsequent distributions or deemed distributions of earnings and profits that have not been previously taxed at the U.S. shareholder level.

Treatment of United States income earned by a controlled foreign corporation

The bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The bill provides that notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Effective Dates

Lower-tier controlled foreign corporations

The provision of the bill treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment of the bill. The provision providing for regulatory adjustments in U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for U.S. shareholder inclusions in taxable years of U.S. shareholders beginning after December 31, 1991.

Subpart F inclusions in year of disposition

The provision of the bill permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment of the bill.

Distributions of previously taxed income

The provision of the bill allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date the bill is enacted.

Foreign tax credit on distribution of previously taxed income

The provision of the bill which repeals the ability to claim foreign tax credits on distributions of previously taxed income generally is effective for taxable years beginning after December 31, 1991. However, the provision is not effective with respect to distributions of previously taxed income which occur in taxable years beginning prior to January 1, 1997, if the distributions relate to subpart F income inclusions for taxable years of the U.S. corporate shareholders beginning before January 1, 1992.

Treatment of United States source income earned by a controlled foreign corporation

The provision of the bill concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years ending after the date of enactment.

3. Translation of foreign taxes into U.S. dollar amounts (sec. 321 of the bill and sec. 986(a) of the Code)

Present Law

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the excahnge rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or income inclusion.

Reasons for Simplification

If each foreign income tax payment is required to be translated at a separate daily exchange rate for the day of the payment, the number of currency exchange rates that are relevant to foreign tax credit calculations varies directly with the frequency of foreign income tax payments. Where U.S. corporations are deemed to pay a portion of the "pool" of foreign taxes paid by foreign corporations, the correct amount of tax in the pool is the product of each tax payment times the relevant translation rate. The longer the period between the time the income is earned and its repatriation (or other inclusion) to the U.S. corporation, the greater the period over which the amounts of tax payments and translation rates are relevant to the determination of net U.S. tax liability.

It is believed that the record-keeping, verification, and examination burdens—both on the IRS and on taxpayers—associated with the advantages of deferral and the foreign tax credit (including the indirect credit) are not insignificant. For example, if events that happened in one year affected only the return filed for that year, and each tax return was affected only by events that happened in the year for which that return was filed, then presumably tax-related records would need to be maintained only between the time the taxable year began and the year that the assessment period for that year expired. On the other hand, if income earned in years 1 through 5 is taxed in year 6, then the amount of documentation relevant to the year 6 return potentially is increased five-fold, and the period over which that information must be maintained is at least five years longer.

U.S. persons who pay foreign income taxes directly and choose the benefits of the foreign tax credit have always been required to maintain detailed foreign tax payment documentation, including exchange rate data for the dates on which they paid foreign income taxes, and U.S. corporations that operate through foreign corporations have been required to maintain documentation regarding the earnings and foreign tax payments of the foreign corporations.[25] Some have argued, however, that relief is warranted for taxpayers that would otherwise bear the combined currency translation responsibilities applicable to direct foreign taxpayers with the extended record-keeping responsibilities applicable to taxpayers that receive the benefits of deferral.

It is believed that an appropriate response to this combination of burdens is to permit regulatory modification of the "time of payment" concept, in such a way that preserves the uniformity of treatment of branches and foreign subsidiaries of U.S. taxpayers, but permits recourse to reasonably accurate average translation rates for the period in which the tax payments are made. Simplification may be provided in this way by reducing, sometimes substantially, the number of translation calculations that are required to be made. There may be situations in which the use of an average exchange rate over a specified time period, to be applied to all tax payments made in that currency during that period, would provide results not substantially different than those that would be derived under present law. This could result, for example, where the value of a foreign currency as it relates to the U.S. dollar does not fluctuate significantly over the specified period.

One of the fundamental premises behind the amendments enacted in 1986 with respect to the translation of foreign taxes was that foreign taxes paid by foreign corporations should be translated in the same manner as foreign taxes paid by foreign branches of U.S. persons. In keeping with that premise, it is believed that any provision to allow the use of average exchange rates for this purpose should be made equally applicable to foreign branches and subsidiaries.

Explanation of Provision

The bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rates for the period during which the tax payments were made.

Effective Date

This provision is effective with respect to taxable years beginning after the date of enactment.

4. Foreign tax credit limitation under the alternative minimum tax (sec. 322 of the bill and sec. 59(a) of the Code)

Present Law

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

Reasons for Simplification

The process of allocating and apportioning deductions for purposes of calculating the regular and AMT foreign tax credit limitations can be complex. Taxpayers that have allocated and apportioned deductions for regular tax foreign tax credit purposes generally must reallocate and reapportion the same deductions for AMT foreign tax credit purposes, based on assets and income that reflect AMT adjustments (including depreciation). However, the differences between regular taxable income and alternative minimum taxable income are often relevant primarily to U.S. source income. As a result of the combined effects of these differences, it is believed that foreign source alternative minimum taxable income generally will not differ significantly from foreign source regu-

lar taxable income. By permitting taxpayers to use foreign source regular taxable income in computing their AMT foreign tax credit limitation, the bill eliminates the need to reallocate and reapportion every deduction.

Explanation of Provision

The bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income.

The election under the bill is available only in the first taxable year beginning after December 31, 1991, for which the taxpayer claims an alternative minimum tax foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

TITLE IV.—OTHER INCOME TAX PROVISIONS

A. Provisions Relating to S Corporations

1. Determination of whether an S corporation has one class of stock (sec. 401 of the bill and sec. 1361 of the Code)

Present Law

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

The Treasury Department has issued proposed regulations[26] providing that a corporation will have more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provide that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes nonconforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions.

Reasons for Simplification

The provision promotes simplification by eliminating traps for the unwary that would be inherent in rules that use nonconforming distributions regardless of the rights of the shareholders as evidence of additional classes of stock.

Explanation of Provision

The bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, determined by taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and any agreements, determines whether the outstanding shares confer different rights to distribution or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment should be properly characterized as a distribution, the Service could require it to be so treated for tax purposes.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.

2. Authority to validate certain invalid elections (sec. 402 of the bill and sec. 1362 of the Code)

Present Law

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

Reasons for Simplification

The bill promotes simplification by giving the Secretary the flexibility to validate an invalid S election where the failure to properly elect S status was inadvertent or untimely.

Explanation of Provision

Under the bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents.

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.[27]

3. Treatment of distributions by S corporations during loss year (sec. 403 of the bill and secs. 1366 and 1368 of the Code)

Present Law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corportion to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[28]

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[29]

In addition, if the S corporation has accumulated earnings and profits,[30] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

Reasons for Simplification

The provision promotes simplification by conforming the S corporation rules regarding distributions to the partnership rules and by eliminating uncertainty regarding the treatment of distributions made during the year.

Explanation of Provision

The bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $600 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same in Example 1, except that on January 1, 1992, A

has accumulated earnings and profits of $500 and an accumulated adjustment account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account, reducing the accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized), reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective Date

These provisions apply to distributions made in taxable years beginning after December 31, 1991.

4. Treatment of S corporations as shareholders in C corporations (sec. 404(a) of the bill and sec. 1371 of the Code)

Present Law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). The Internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[31] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free, but may not liquidate into an S corporation tax-free.[32] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

Reasons for Simplification

The provision promotes simplification by treating similar transactions in a similar manner for tax purposes.

Explanation of Provision

The bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. S corporations permitted to hold subsidiaries (sec. 404(b) of the bill and sec. 1361 of the Code)

Present Law

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[33]

Reasons for Simplification

The provision promotes simplification by eliminating a barrier to using the S corporation form of entity and providing more appropriate treatment of corporations with subsidiaries, i.e., the prohibition of filing a consolidated return if S corporate status is elected rather than disqualification of the S election.

Explanation of Provision

The bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Elimination of pre-1983 earnings and profits of S corporations (sec. 404(c) of the bill)

Present Law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits to the extent its undistributed earnings and profits for the year exceeded its taxable income. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

Reasons for Simplification

The provision promotes simplification by eliminating the need to keep records of certain generally small amounts of earnings arising before 1983.

Explanation of Provision

The bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Determination of shareholder's pro rata share where disposition of entire interest (sec. 404(d) of the bill and sec. 1377(a)(2) of the Code)

Present Law

Under present law, a shareholder of an S corporation takes into account separately his pro rata share of items of income, deduction, credit, etc. of the corporation. For this purpose, a shareholder's pro rata share means an allocation based on a per-share, per-day basis. However, in the case of a termination of a shareholder's interest, the corporation, with the consent of all shareholders, may elect to allocate items as if the taxable year ended on the date of termination and another taxable year began the following day.

Reasons for Simplification

The provision provides simplification by allowing a selling shareholder to be certain that his share of income will not be affected by income earned after the sale.

Explanation of Provision

Under the bill, the present-law rule, allowing a corporation to elect to close its books for purposes of determining shares of income on the termination of a shareholder's interest, will be the mandatory rule in the case of the disposition of a shareholder's entire interest in the corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

8. Treatment of items of income in respect of a decedent held by an S corporation (sec. 404(e) of the bill and sec. 1367 of the Code)

Present Law

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includible in the decedent's income before his death under his method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost of basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its vaue is attributable to items constituting IRD.[34] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item if IRD held by an S corporation is unclear.

Reasons for Simplification

The provision promotes simplification by eliminating the uncertainty of present law, and by treating items of IRD held by a taxpayer directly, through a partnership, or through an S corporation in a similar manner.

Explanation of Provision

The bill provides that a person acquiring stock in an S corporation from a decedent is to treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where a item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective Date

The provision applies with respect to decedents dying after date of enactment of the bill.

B. Accounting Provisions

1. Modifications to the look-back method for long-term contracts (sec. 411 of the bill and sec. 460 of the Code)

Present Law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is teated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[35] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

The look-back method does not apply to any contract that is completed within two taxable years of the contract commencement date and if the gross contract price does not exceed the lesser of (1) $1 million or (2) one percent of the average gross receipts of the taxpayer for the preceding three taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

Reasons for Simplification

Present law may require multiple applications of the look-back method with respect to a single contract or may otherwise subject contracts to the look-back method even though the amounts necessitating the look-back computations are de minimis relative to the aggregate contract income. In addition, the use of multiple interest rates complicates the mechanics of the look-back method.

Explanation of Provisions

Election not to apply the look-back method for de minimis amounts

The bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of income previously taken into account for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual net income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative net taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of contract look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of contract look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent

of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the return due date (determined without regard to extensions) for the taxable year and ends on such return due date for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective Date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

2. Simplified method for applying uniform cost capitalization rules (sec. 412 of the bill and sec. 263A of the Code)

Present Law

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

Reasons for Simplification

The uniform cost capitalization rules require taxpayers to determine for each taxable year the costs of each administrative, service, or support function or department that are allocable to production or resale activities. If a taxpayer does not elect any of the simplified methods provided in Treasury regulations, this allocation may be unduly burdensome and costly.

Explanation of Provision

The bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

Effective Date

The provision applies to taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

C. Minimum Tax Provisions

1. Depreciation under the corporate alternative minimum tax (sec. 421 of the bill and sec. 56 of the Code)

Present Law

Under present law, a corporation is subject to an alternative minimum tax (AMT) which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income (AMTI) is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

One of the adjustments which is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR life of the property).

For taxable years beginning after 1989, AMTI is increased by an amount equal to 75 percent of the amount by which adjusted current earnings (ACE) exceed AMTI (as determined before this adjustment). In general, ACE means AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150 percent declining balance method and again using the straight-line method. Taxpayers may elect to use either depreciation method for regular tax purposes. If a taxpayer uses the straight-line method for regular tax purposes, it must also use the straight-line method for AMT purposes.

Reasons for Simplification

The use of two separate depreciation systems complicates the calculation of, and the recordkeeping for, the corporate alternative minimum tax.

Explanation of Provision

The bill applies a 120-percent declining balance method (switching to straight-line at a point maximizing depreciation deductions) for personal property (other than transition property to which the ACRS system in effect before the Tax Reform Act of 1986 applies) for determining the AMTI of a corporation. No further depreciation adjustment for this property would be required for ACE. Thus, corporations would be required to keep only one set of depreciation records for purposes of the AMT.

Corporate taxpayers may elect to use the 120-percent declining balance method of depreciation for regular tax purposes. As under present law, if a corporation uses the straight-line method for regular purposes, it must also use the straight-line method for AMT purposes.

Effective Date

The provision is effective for property placed in service in taxable years beginning after December 1990.

2. Treatment of built-in losses for purposes of the corporate alternative minimum tax (sec. 422 of the bill and sec. 56(g) of the Code)

Present Law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G)). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

Reasons for Simplification

Present law complicates the treatment of built-in losses of a corporation after a change of ownership by providing different rules for regular and alternative minimum tax and by providing rules different than those applicable to net operating losses. The present-law alternative minimum tax rules applicable to built-in losses requires a significant amount of additional recordkeeping.

Description of Provision

The bill repeals the ACE rule relating to the treatment of built-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective Date

The provision is effective for changes of ownership occurring after December 31, 1991.

D. Tax-Exempt Bond Provisions

1. Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of the issuing governmental units (sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for a private party (or private parties) in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds generally is not taxable if (a) the financed activity is specified in the Code, (b) at least 95 percent of the net proceeds of the bond issue are used to finance the specified activity, and (c) numerous other requirements, including annual State volume limitations (for most private activity bonds) are satisfied.

Both private activity bonds and governmental bonds also must satisfy arbitrage restriction requirements for interest to be excluded from gross income. Interest on private activity bonds (other than qualified 501(c)(3) bonds) issued after August 7, 1986, is a preference item under the individual and corporate alternative minimum taxes. Additionally, interest on all State and local government bonds is included in determining a corporation's adjusted current earnings preference.

2. Issues under continuing review

It is expected that Congress will continue to review as the subject of possible legislative projects additional simplification options in two areas affecting State and local government bonds. These issues are—

a. Possible statutory rules for use by governmental units maintaining non-arbitrage motivated commingled accounting practices in determining their arbitrage rebate liability; and

b. Possible penalty alternatives to loss of tax-exemption for selected violations of the rules governing qualification for tax-exemption.

3. Provisions of the bill

a. Simplification of arbitrage rebate requirement for governmental bonds (sec. 431 of the bill and sec. 148 of Code).

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purpose of the borrowing within six months after issuance.

This six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are so spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

Reasons for Simplification

The principal Federal policy concern underlying the arbitrage rebate requirement is the earlier and larger than necessary issuance of tax-exempt bonds to take advantage of the opportunity to profit by investing funds borrowed at low-cost tax-exempt rates in higher yielding taxable investments. If at least 95 percent of the proceeds of an issue are spent within six months, and the remainder within one year, opportunities for arbitrage profit are significantly limited. In the case of larger issues, the administrative complexity of calculating rebate liability on relatively small amounts of proceeds, e.g., $100,000 of proceeds, is greater than the potential for arbitrage abuse from eliminating the rebate requirement.

Explanation of Provision

The bill deletes the $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after the issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

b. Simplification of compliance with 24-month arbitrage rebate exception for construction bonds (sec. 432 of the bill and sec. 148 of the Code).

Present Law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

The exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a reasonably required reserve or replacement fund or a bona fide debt service fund or to certain other investments (e.g., sinking funds). Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spending requirements.

Reasons for Simplification

Bond proceeds invested in a bona fide debt service fund generally must be spent at least annually for current debt service. The short-term nature of investments in such funds results in only limited potential for generating arbitrage profits. If the spending requirements of the 24-month rebate exception are satisfied, the administrative complexity of calculating rebate on these proceeds outweighs the other Federal policy concerns addressed by the rebate requirement. Further, this provision will conform the rules on these funds for issuers satisfying the six-month and 24-month expenditure exceptions to the rebate requirement.

Explanation of Provision

The bill exempts earnings on bond proceeds invested in bona fide service funds from the arbitrage rebate requirement and the spending and penalty requirements of the 24-month exception if the spending requirements of that exception are satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

c. Automatic extension of initial temporary period for certain construction bonds (sec. 433 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage requirements with respect to investment of their bond proceeds. First, tax-exempt bond proceeds may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits generally include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

Notwithstanding the arbitrage rebate requirement, requiring yield restriction following initial temporary periods is an important factor in curbing earlier issuance of bonds than otherwise would occur. Provided that issuers substantially comply with a prompt expenditure requirement so that the opportunities for tax motivated arbitrage are limited, however, reliance on the rebate requirement for limited additional periods will allow issuers to continue to pursue more flexible and liquid investments while construction activities are being completed. Automatically allowing an additional 12-month period, where substantially all of the proceeds have been spent, will relieve issuers from the burden of seeking a ruling from the IRS without increasing the opportunity for arbitrage motivated investments.

Explanation of Provision

The bill provides that the initial temporary period for construction bonds is automatically extended for a period of 12 months if at least 85 percent of the available construction proceeds are spent within the original initial temporary period and the issuer reasonably expects to spend the remaining proceeds within the 12-month extension period. Construction bonds eligible for this automatic extension include only those bonds currently eligible for the 24-month rebate expenditure exception, described above.

The bill allows bond proceeds to be invested without yield restrictions during this additional period. The arbitrage rebate or 1.5-percent penalty requirement will continue to apply to unspent proceeds during the extension period.

Effective Date

This provision applies to bonds issued after the date of enactment.

d. Simultaneous issuance of certain discrete issues not aggregated (sec. 434 of the bill).

Present Law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time (31 days) and pursuant to a common plan of marketing.

Reasons for Simplification

Requiring issuers that simultaneously issue discrete issues of tax and revenue anticipation notes ("TRANs") and other governmental bonds to separate issuance of discrete non-arbitrage motivated issues by 31 days adds administrative complexity and increases their costs of issuance.

Explanation of Provision

The bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of section 148(f)(4)(B)(iii).

Effective Date

This provision applies to bonds issued after the date of enactment.

e. Authority for Treasury Department to exempt certain taxpayers from tax-exempt interest reporting requirement (sec. 435 of the bill and sec. 6012 of the Code).

Present Law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bond interest they receive.

Reasons for Simplification

The Internal Revenue Service should be authorized to exempt taxpayers from requirements to compile and report information on income tax returns if the Secretary determines that such information is not useful to the administration of the tax laws.

Explanation of Provision

The bill authorizes the Internal Revenue Service to provide exceptions from the requirement that taxpayers report interest on State and local government bonds on their Federal income tax returns in cases where

the Secretary determines that such information is not useful to the administration of the tax laws.

Effective Date

This provision is effective for taxable years beginning after the date of enactment.

f. Repeal of deadwood provisions (sec. 436 of the bill and sec. 148 of the Code).

Present Law

Present law includes special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

Explanation of Provision

The bill deletes these special exceptions as "deadwood."

Effective Date

This provision applies to bonds issued after the date of enactment.

E. Treatment of Certain Revocable Trusts as Estates (sec. 441 of the bill and sec. 7701 of the Code)

Present Law

A grantor trust is treated as owned by the grantor, who is taxed on its income and is entitled to its deductions. A grantor trust includes a revocable trust, one in which the grantor retains the power to revest the title of the trust property in himself (sec. 676).

Trusts and estates are subject to different income tax rules. An estate receives a higher exemption (sec. 642(b)) and is allowed a deduction for amounts permanently set aside for charity (sec. 642(c)), and, for two years after the decedents death, a $25,000 offset for rental real estate activities (sec. 469(i)). A trust is required to adopt a calendar year (sec. 645(a)), and a distribution from a trust in the first 65 days of the taxable year is treated as occurring on the last day of the preceding taxable year (sec. 663(b)) (the "65-day rule").

Trusts and estates generally are required to pay estimated taxes in the same manner as individuals. A special rule exempts estates from estimated taxes for taxable years ending within two years of the decedent's death. This exemption also applies to a grantor trust that either receives the residue of the probate estate under the grantor's will, or, (if there is no will) is primarily responsible for paying taxes, debts and expenses of administration.

Reasons for Simplification

Estate planners commonly use revocable trusts to avoid probate. Creating parity between such trusts and estates simplifies planning by reducing the role of tax considerations in the decision to utilize revocable trusts.

Explanation of Provision

The bill treats as an estate a revocable trust receiving the residue of the probate estate under the grantor's will. If there is no will, the revocable trust that is primarily responsible for paying taxes, debts and expenses of administration is treated as an estate. Such treatments apply only for years ending after the decedent's death and beginning within three years, nine months of the decedent's death. As a conforming amendment, the bill limits the rule treating grantor trusts as estates for purpose of estimated taxes to grantor trusts described in section 676.

The provision generally applies for all income tax purposes. It thus allows a revocable trust a deduction for an amount set aside for charity and the $25,000 offset for rental real estate activities to the extent the offset is not utilized by the estatae. It denies such trust the benefit of the 65-day rule. The provision does not apply for transfer tax purposes.

The provision does not apply for purposes of determining the amount of personal exemption, the taxable year or any other purpose specified in regulations. Thus, as under present law, revocable trusts will continue to receive a lower exemption amount and be required to adopt a calendar year. It is anticipated that the Treasury Department may exercise its regulatory authority in other situations to require consistency with prior tax treatment or to maintain parity with decedents having an estate but no revocable trust.

Effective Date

The provision applies to decedents dying after the date of enactment.

F. Other Provisions Relating to Partnerships

1. Matching rules for payments to partners (sec. 442 of the bill and secs. 267, 706 and 707 of the Code)

Present Law

If a partner engages in a transaction with a partnership other than in a capacity as a member of the partnership, the transaction is considered as occurring between the partnership and one who is not a partner. Under the timing rule applicable to such transactions (and to transactions among related persons generally), payments made to one who is not treated as a partner are deductible by the partnership in the year in which they are includible in the recipient's income. A partner generally is treated as acting in a capacity other than as a partner to the extent that his income from the transaction with the partnership does not depend upon partnership profit.

Payments to a partner for services or the use of capital that are determined without regard to partnership income ("guaranteed payments") are for specified purposes considered as made to one who is not a member of the partnership. Under the timing rule applicable to guaranteed payments, such payments generally are includible in the partner's income in the year in which they are deductible by the partnership.

Reasons for Simplification

Many payments to a partner can be described as either made to a person in a capacity other than as a partner or as guaranteed payments. The existence of two different timing rules creates uncertainty as to the proper tax treatment. By conforming the timing rule for guaranteed payments to the timing rule generally applicable to transactions among related parties, the provision reduces uncertainty and eliminates a potential issue of controversy.

Explanation of Provision

The bill defers the deduction of guaranteed payments by a partnership until the year in which they are includible in the partner's income. Thus, the bill conforms the timing rule for guaranteed payments to the timing rule for payments made to a partner acting in a capacity other than as a member of the partnership.

Effective Date

The bill applies to amounts taken into account after date of enactment.

2. Close partnership taxable year with respect to deceased partner (sec. 443 of the bill and sec. 706(c) of the Code)

Present Law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged, or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year that includes his death is taxed to his estate or successor in interest rather than being reported on the decedent's final income tax return. (See *Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).)

Reasons for Simplification

The rule leaving open the partnership taxable year with respect to a deceased partner was adopted in 1954 to prevent the bunching of income that could occur with respect to a partnership reporting on a fiscal year other than the calendar year. Without this rule, as many as 23 months of income might have been reported on the partner's final return. Legislative changes occurring since 1954 have required most partnerships to adopt a calendar year, reducing the possibility of bunching. Consequently, income and deductions are better matched if the partnership taxable year closes upon a partner's death and partnership items are reported on the decedent's last return.

Present law closes the partnership taxable year with respect to a deceased partner only if the partner's entire interest is sold or exchanged pursuant to an agreement existing at the time of death. By closing the taxable year automatically upon death, the proposal reduces the need for such agreements.

Explanation of Provision

The bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise.

Effective Date

The provision applies to partnership taxable years beginning after December 31, 1991.

G. Corporate Provision: Clarification of Amount of Gain Recognized by a Securityholder in a Reorganization, Etc. (sec. 444 of the bill and secs. 354–356 of the Code)

Present Law

Under present law, gain is recognized by a shareholder or securityholder in a reoganization (or distribution under sec. 355) only to the extent property other than stock or securities of the corporation or of a party to the reorganization are received. For purposes of this rule, the fair market value of the excess of the principal amount of any securities received over the principal amount of any securities surrendered is treated as other property. If the principal amount of the securities received and the principal amount of the securities surrendered is the same, no amount of the securities received is treated as other property.

Also, under present law, a certain portion of the stated redemption price at maturity of a security may be treated as interest (referred to as "original issue discount" or "OID"), rather than principal. Also, in certain limited circumstances, a portion of a payment designated as principal may be treated as interest (under sec. 483).

It is unclear under present law whether the OID rules apply for purposes of determining the principal amount of a security for purposes of the nonrecognition rules described above.

Reasons for Simplification

The provision promotes simplification by conforming the rules for determining gain where securities are exchanged in a corporate reorganization with other rules in the

Code allocating amounts in a debt instrument between principal and interest.

Explanation of Provision

The bill provides that for purposes of determining the amount of gain recognized to a securityholder in a reorganization (or a sec. 355 distribution), the excess of the issue price (as defined in secs. 1273 and 1274) of the securities received over the adjusted issue price of the securities surrendered would be treated as other property. If securities are received and none surrendered, the entire issue price is treated as other property. If the issue price of the securities received does not exceed the adjusted issue price of the securities surrendered, then no amount of the securities is treated as other property. These rules apply both to securityholders using the cash method and the accural method of accounting.

The adjusted issue price of a security surrendered means the issue price of the security, increased by the OID previously included in the gross income of any holder of the security (determined without to the special rule for subsequent holders), or decreased by the amount of bond premium which would have been allowed as a deduction (or offset) if the bond had always been held by the original holder. Where section 1273(b)(4) applies to a security, the stated redemption price is reduced by the amount of the redemption price which is treated as interest (for example, under sec. 483).

The provision is not intended to create any inference as to the proper treatment of these transactions under present law.

The following examples illustrate the application of this provision:

Example (1).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $800 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount of $600 and an adjusted issue price of $500. Under the bill, the amount of the excess issue price, or $300, is treated as "other property" for purposes of section 356.

Example (2).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $1,200 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount and an adjusted issue price of $1,000. Under the bill, the amount of the excess issue price, or $200 is treated as "other property" for purposes of section 356.

Effective Date

The provision applies to exchanges and distributions after the date of enactment.

TITLE V.—PROVISIONS RELATING TO ESTATE AND GIFT TAXATION

1. Waiver of right of recovery for certain marital deduction property (sec. 501 of the bill and sec. 2207A of the Code)

Present Law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). A will requiring that all taxes be paid by the estate may, under State law, waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

Reasons for Simplification

It is understood that persons utilizing standard testamentary language often inadvertently waive the right of recovery with respect to QTIP. Allowing the right of recovery to be waived only by specific reference simplifies the drafting of wills to better conform with the testator's likely intent.

Explanation of Provision

The bill conforms the rule governing waiver of the right to contribution for QTIP to the rule governing waiver of the right of recovery for property includable under section 2036. Accordingly, the surviving spouse's estate has a right of recovery with respect to QTIP unless the spouse otherwise directs in a provision of the will (or revocable trust) specifically referring to section 2207A.

Effective Date

The provision applies to decedents dying after the date of enactment.

2. Inclusion in gross estate of certain gifts made within three years of death (sec. 502 of the bill and secs. 2035 and 2038 of the Code)

Present Law

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). It also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[36] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

Reasons for Simplification

The inclusion of certain property transferred during the three years before death is intended to address situations in which such transfer would otherwise reduce the value of property subject of transfer tax. Inclusion is unnecessary if the entire value of the underlying property is subject to gift tax and the transferor has retained no powers over such property. Repeal of such inclusion eliminates a principal tax disadvantage of funded revocable trusts, which are generally used for nontax purposes.

Explanation of Provision

The bill provides that a transfer from a revocable trust within three years of death does not result in the inclusion of the transfer in the gross estate. It is intended that no interference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

The bill also revises section 2035 to improve its clarity.

Effective Date

The provision applies to decedents dying after the date of enactment.

3. Definition of qualified terminable interest property (sec. 503 of the bill and secs. 2044, 2056(b)(7), and 2523(f) of the Code)

Present Law

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

Under proposed regulations, an income interest may constitute a qualifying income interest for life even if income between the last distribution date and the date of the surviving spouse's death (the "accumulated income") is not required to be distributed to the surviving spouse or the surviving spouse's estate. (See Prop. Reg. secs. 20.2056(b)-7(c)(1), 25.2523(f)-1(b)). Contrary to the regulations, the United States Tax Court has held that in order to satisfy the QTIP requirements, the accumulated income must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. (See *Estate of Howard* v. *Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990)).

Reasons for Simplification

The Tax Court opinion in *Estate of Howard* has created uncertainty as to when a trust qualifies for the marital deduction. This uncertainty makes planning difficult and necessitates closing agreements designed to prevent the whipsaw that would occur if a deduction is allowed for property that is not subsequently included in the spouse's estate. By codifying the Treasury Regulations, the bill eliminates uncertainty and simplifies the administration of the tax laws.

Explanation of Provision

Under the bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. When the marital deduction is allowed, however, such income is includible in the surviving spouse's gross estate.

It is intended that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

Effective Date

The provision applies to decedents dying, and gifts made, after date of enactment. The proposal does not include in the surviving spouse's gross estate property for which no marital deduction was claimed.

4. Requirements for qualified domestic trust (sec. 504 of the bill and sec. 2056A of the Code)

Present Law

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Mscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to an alien spouse outside a qualified domestic trust (QDT). An estate tax is imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust, which, among other things, required that all trustees be U.S. citizens or domestic corporations. This requirement was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to provide that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

Reasons for Simplification

Wills drafted under the TAMRA rules must be revised to conform with the withholding requirement, even though both the TAMRA rule and its successor ensure that a U.S. trustee is personally liable for the estate tax

on a QDT. By reducing the number of will revisions necessary to comply with the statutory changes, the provision simplifies estate planning.

Explanation of Provision

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective Date

The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.

5. Election of special use valuation of farm property for estate tax purposes (sec. 505 of the bill and sec. 2032A of the Code)

Present Law

An executor may elect to value certain real property used in farming or other closely held business operations for estate tax purposes based upon its current use value rather than its full fair market value (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury Department regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A-8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and substantially complies with the regulations but fails to provide all required information or the signatures of all persons with an interest in the property is allowed to supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary.

Reasons for Simplification

In filing the estate tax return, executors commonly neglect to include a recapture agreement signed by all persons with an interest in the property or all information required by Treasury regulations. Allowing such signatures or information to be supplied later simplifies return filing.

Explanation of Provision

The bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to his compliance with the regulations. Thus, the bill allows the current use valuation election to any such executor who supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. The bill also allows signatures to be added to the previously filed agreement during that time period.

Effective Date

The provision applies to decedents dying after the date of enactment.

TITLE VI.—EXCISE TAX PROVISIONS

A. Motor Fuel Excise Tax Provisions

1. Consolidate provisions imposing diesel and aviation fuel excise taxes (sec. 601 of the bill and secs. 4041 and 4091 of the Code)

Present Law

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, Code section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel has not occurred under section 4091.

Reasons for Simplification

Consolidating the diesel and aviation tax rules into one section of the Code will make the rules easier to find and understand.

Explanation of Provision

The bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041(b)(1) (B) and (j) of the Code. These provisions are redundant.

Effective Date

The provision is effective for sales or uses on or after January 1, 1992.

2. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers (sec. 602(a) of the bill and sec. 6416(b) of the Code)

Present Law

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of a tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell fuel subject to the special motor fuel or gasoline taxes and of certain other articles are permitted a refund or credit (rather than the ultimate user) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) use as supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

Reasons for Simplification

Diesel and aviation fuel sales are not subject to the special refund or credit procedures, which forces users of such fuels for exempt purposes to bear the burden of filing for the refund or credit themselves and, therefore, makes such purchases more difficult.

Explanation of Provision

The bill allows a refund or credit to taxpayers for diesel and aviation fuel sold tax-paid to persons who resell for any of the exempt uses described above.

Effective Date

The provision is effective for sales on or after January 1, 1992.

3. Consolidate refund provisions for fuel excise taxes (sec. 602(b) of the bill and secs. 6420, 6421, and 6427 of the Code)

Present Law

As a general matter, purchasers who use fuels for an exempt use are entitled to a refund if the fuels have been purchased tax-paid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchasers entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest being $750). The threshold amounts differ for different fuels and different exempt uses and whether quantities are aggregated. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

Reasons for Simplification

Consolidating the credit and refund provisions for fuel excise taxes into one section in the Code will make these provisions easier to find and understand. Standardizing the refund procedures will reduce confusion and allow taxpayers to obtain refunds more quickly.

Explanation of Provision

The bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective Date

The provision is effective for sales on or after January 1, 1992.

4. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators (sec. 602(b) of the bill and sec. 6420 of the Code)

Present Law

In general, farmers who use gasoline and aviation fuel on a farm are entitled to a refund of the tax that has been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on a farm are entitled to a refund of the tax paid on that fuel in lieu of the farmer, but only if the owner or operator of the farm waives its right to a refund for such fuel.

Reasons for Simplification

Eliminating the waiver will reduce the paperwork burden of a taxpayer seeking a refund.

Explanation of Provision

The bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective Date

The provision is effective for fuels purchased on or after January 1, 1992.

5. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel (sec. 603 of the bill and sec. 4093(c)(4) of the Code)

Present Law

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers will sim-

plify the IRS' administration of the registration requirements and eliminate unnecessary paperwork for taxpayers.

Explanation of Provision

The bill permits the IRS by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective Date

The provision applies to sales on or after January 1, 1992.

B. Provisions Relating to Distilled Spirits, Wines, and Beer (secs. 611–621 of the bill, secs. 5008(c), 5044, 5053, 5055, 5115, 5175(c), 5207(c), 5222(b), 5384(b) of the Code, and new sec. 5418 of the Code)

Present Law

Return of imported bottled distilled spirits

Present law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits, since they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Department of the Treasury when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distrilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, emeliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). (A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Department of the Treasury of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

Reasons for Simplification

In addition to imposing taxes, the Internal Revenue Code regulates many aspects of the alcoholic beverage industry. These regulations date in many cases from the prohibition era or earlier. In 1980, the method of collecting excise taxes on alcoholic beverages was changed from a system under which Treasury Department inspectors regularly were present at production facilities to a bonded premises system, which more closely tracks the systems used in connection with other Federal taxes. Many of the recordkeeping requirements and other regulatory measures imposed in connection with these taxes have not been modified to conform to these collection changes. In addition, modification of statutory provisions is warranted in view of advances in technology used in the alcoholic beverage industry and environmental protection concerns.

Explanation of Provisions

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules for domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Department of the Treasury is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission to it of proof of exportation in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The bill allows beer to be tranferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The bill allows beer to be removed from a brewery without payment of tax for purposes of destruction, subject to Treasury Department regulations.

Records of exportation of beer

The bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective Date

These provisions of the bill generally are effective beginning 180 days after date of the bill's enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the bill's enactment.

C. Other Excise Tax Provisions

1. Authority for IRS to grant exemptions from registration requirements (sec. 631 of the bill and sec. 4222 of the Code)

Present Law

Under section 4222, certain sales of articles subject to Federal excise taxes may not be

made without payment of tax under section 4121 unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers from the registration requirements will simplify the Service's administration of the registration provisions. Also, the provision will reduce unnecessary paperwork for affected taxpayers.

Explanation of Provision

The bill revises section 4222(a) so that certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4221 to any person who is required by the Secretary to be registered but who is not so registered. This will allow the Secretary to provide exemption from registration requirements for certain classes of taxpayers.

Effective Date

The provision applies to sales after the 180th day after the date of enactment.

2. Repeal temporary reduction in tax on piggyback trailers (sec. 632(a) of the bill and sec. 4051(d) of the Code)

Present Law

Piggyback trailers and semitrailers sold within the 1-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

Explanation of Provision

The bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective Date

The provision is effective on the date of enactment.

3. Expiration of excise tax on deep seabed minerals (sec. 632(b) of the bill and secs. 4495–4498 of the Code)

Present Law

Background

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96–283), one title of which was the Deep Seabed Hard Mineral Removal Tax Act of 1979 (the "Tax Act"), was enacted into law on June 28, 1980. The Resources Act was intended to encourage the successful negotiation of an international deep seabed treaty by the United Nations Conference on the Law of the Sea (a U.N. international deep seabed treaty), and pending the entry into force of such a treaty, to establish a special fund to support international revenue sharing from deep seabed mineral recovery. To this end, the Act established an interim trust fund in the Treasury, the Deep Seabed Revenue Sharing Trust Fund (the Trust Fund), into which any Tax Act receipts would be deposited. There have been no tax collections under the Tax Act. The Trust Fund proceeds were intended to be used to help discharge any U.S. financial obligations under a U.N. international deep seabed treaty should the United States become a party thereto.

Subsequent to the enactment of the Resources Act, the U.N. Conference on the Law of the Sea completed negotiations for an international deep seabed treaty in 1982, and the United States announced that it would not sign the treaty.

If and when the Law of the Sea Convention (the Convention) enters into force, it would establish a regime for the regulation of mineral extraction from the deep seabed, and would impose revenue obligations on its adherents. Such obligations were to be fundable by the Deep Seabed Revenue Trust Fund, if the United States were to become obligated by the Convention.

Excise tax on certain hard minerals

The Tax Act added sections 4495 through 4498 to the Internal Revenue Code. These sections would impose an excise tax on the removal from the deep seabed of certain hard mineral resources pursuant to a deep seabed permit issued under the Resources Act. In general, a deep seabed permit issued under the Resources Act would authorize its holder to engage in commercial recovery activities with respect to hard mineral resources on or under deep seabeds. No such permits have been issued.

Deep seabeds are, in general, areas outside the continental shelf of any nation. In general, hard mineral resources are mineral nodules, lying on or just below the surface of deep seabeds, that contain one or more minerals including manganese, nickel, cobalt, or copper. Under the Tax Act, if a person removes a hard mineral resource from the deep seabed pursuant to a deep seabed permit, a tax is imposed on the permit holder equal to 3.75 percent of 20 percent (or 0.75 percent) of the fair market value of the commercially recoverable minerals removed.

The Tax Act was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990) (10 years after the date of enactment of the Tax Act). Since the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

Explanation of Provisions

The bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective Date

The provision is effective on the date of enactment.

TITLE VII.—ADMINISTRATIVE PROVISIONS

A. Administrative Provisions

1. Simplify employment tax reporting for household employees (sec. 701 of the bill and secs. 3102, 3121, 3306 and 6654 of the Code)

Present Law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W–2) at the end of the year.

In addition, an employer must pay federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940–EZ) at the end of the year.

Reasons for Simplification

Employer return requirements are confusing and burdensome for many individuals, who may be employers only because they employ a domestic employee on an intermittent basis. Streamlining the return requirements would reduce the filing burden.

Explanation of Provision

The bill changes the threshold for withholding and paying social security taxes from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees to report any social security or federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill authorizes the Secretary to enter into agreements with states to collect state unemployment taxes in the same manner.

Effective Date

The provision is effective for remuneration paid in calendar years beginning after December 31, 1991.

2. Penalties for failure to provide reports relating to pension payments (sec. 702 of the bill and secs. 6652(e) and 6724 of the Code)

Present Law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

Reasons for Simplification

Conforming the information-reporting penalties that apply with respect to pension payments to the general information-reporting penalty structure would simplify the overall penalty structure through uniformity and provide more appropriate information-reporting penalties with respect to pension payment.

Explanation of Provision

The bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective Date

The provision applies to returns and statements the due date for which is after December 31, 1991.

3. Clarify that reproductions from digital images are reproductions for recordkeeping purposes (sec. 703 of the bill and sec. 6103(p) of the Code)

Present Law

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

Reasons for Simplification

Reducing the IRS' need to maintain hard-copy originals of documents would simplify the administration of the tax laws. As part of its systems modernization plan, the IRS intends to store returns, documents, and other materials in digital image format. This plan will permit the IRS to respond much more quickly to taxpayers' inquiries about the status of their accounts. It will facilitate implementation of this plan to clarify that reproductions made from such images would be accorded the same legal status as other reproductions.

Explanation of Provision

The bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective Date

The provision is effective on the date of enactment.

4. Repeal tax shelter registration requirements (sec. 704 of the bill and sec. 6111 of the Code)

Present Law

Organizers of tax shelters must register their shelters with the IRS before offering any interests for sale.

Reasons for Simplification

As a result of the passive loss provisions (and related provisions) of the Tax Reform Act of 1986, tax shelters are no longer being marketed as they were prior to that Act. Registration of tax shelters is therefore no longer necessary for the proper administration of the tax laws. Repeal of the registration requirements would reduce paperwork burdens for taxpayers and the IRS.

Explanation of Provision

The bill repeals the tax shelter registration requirements.

Effective Date

The provision is effective on the date of enactment.

5. Repeal of authority to disclose whether a prospective juror has been audited (sec. 705 of the bill and sec. 6103(h)(5) of the Code)

Present Law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

Reasons for Simplification

This disclosure requirement, as it has been interpreted by several recent court decisions, has created significant difficulties in the civil and criminal tax litigation process. First, the litigation process can be substantially slowed. It can take the Secretary a considerable period of time to compile the information necessary for a response (some courts have required searches going back as far as 25 years). Second, providing early release of the list of potential jurors to defendants (which several recent court decisions have required to permit defendants to obtain disclosure of the information from the Secretary) can provide an opportunity for harassment and intimidation of potential jurors in organized crime, drug, and some tax protester cases. Third, significant judicial resources have been expended in interpreting this procedural requirement that might better be spent resolving substantive disputes. Fourth, differing judicial interpretations of the nature of this provision have caused confusion and, in some instances, defendants convicted of criminal tax offenses have obtained reversals of those convictions because of failures to comply fully with this provision.

Explanation of Provision

The bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective Date

The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

6. Repeal TEFRA audit rules for S corporation (sec. 706 of the bill and secs. 6037, 6241, 6242, 6243, 6244, and 6245 of the Code)

Present Law

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on the shareholder's tax return.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

Reasons for Simplification

An S corporation generally is limited to 35 investors. In addition, the vast majority of both existing and newly formed S corporations are expected to qualify for the small S corporation exception from the unified audit and litigation provisions. Consequently, a unified audit procedure is unnecessary for S corporations.

Explanation of Provision

The bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

7. Clarify statute of limitations for items for passthrough entities (sec. 707 of the bill and sec. 6501(a) of the Code)

Present Law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber v. Comm.*, 94 TC 863 (1990) with *Kelly v. Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

Reasons for Simplification

Uncertainty regarding the correct statute of limitations hinders the resolution of factual and legal issues and creates needless litigation over collateral matters.

Explanation of Provision

The bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

B. Tax Court Provisions

1. Clarify jurisdiction of Tax Court with respect to overpayment determinations (sec. 711 of the bill and sec. 6512(b) of the Code)

Present Law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Reasons for Simplification

Clarification of the jurisdiction of the Tax Court and the appealability of orders of the Tax Court would provide for greater certainty for taxpayers and the Government in conducting cases before the Tax Court. Clarification will also reduce litigation.

Explanation of Provision

The bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective Date

The provision is effective on the date of enactment.

2. Clarify procedures for administrative cost awards (sec. 712 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

Reasons for Simplification

The proper procedures for applying for a cost award are uncertain in some instances. Clarifying these procedures will decrease litigation over these procedural issues.

Explanation of Provision

The bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the

date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective Date

The provision is effective on the date of enactment.

3. Clarify Tax Court jurisdiction over interest determinations (sec. 713 of the bill and sec. 7481(c) of the Code)

Present Law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

Reasons for Simplification

It would be beneficial to taxpayers if a proceeding for a redetermination of interest supplemented the original deficiency action brought by the taxpayer to redetermine the deficiency determination of the IRS. A motion, rather than a petition, is a more appropriate pleading for relief in these cases.

Explanation of Provision

The bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective Date

The provision is effective on the date of enactment.

4. Clarify net worth requirements for awards of administrative or litigation costs (sec. 714 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

Reasons for Simplification

Although the net worth requirements are explicit for individuals, corporations, and partnerships, it is not clear which net worth requirement is to apply to other potential litigants. It is also unclear how the individual net worth rules are to apply to individuals filing a joint tax return. Clarifying these rules will decrease needless litigation over procedural issues.

Explanation of Provision

The bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective Date

The provision applies to proceedings commenced after the date of enactment.

C. Permit IRS to Enter Into Cooperative Agreements With State Tax Authorities (sec. 721 of the bill and new sec. 7524 of the Code)

Present Law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

Reasons for Simplification

Most taxpayers reside in States with an income tax and, therefore, must file both Federal and State income tax returns each year. Each return is separately prepared, with the State return often requiring information taken directly from the Federal return. Permitting the IRS to enter into agreements with States that are designed to promote efficiency through joint tax administration programs would reduce the burden on taxpayers because much of the same information could be used by both Governments.

For example, the burden on taxpayers could be significantly reduced through joint electronic filing of tax returns, whereby a taxpayer electronically transmits both Federal and State returns to one location. Joint Federal and State electronic filing could simplify and shorten return preparation time for taxpayers. Also, State governments could benefit from reduced processing costs, while the IRS could benefit from the potential increase in taxpayers who would elect to file electronically because they would be able to fulfill both their Federal and State obligations simultaneously.

Explanation of Provision

The bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective Date

This provision is effective on the date of enactment.

FOOTNOTES

[1] See, e.g., Rev. Rul. 90-79, 1990-2 C.B. 26 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 988 and does not offset taxable gain on the sale of the house).

[2] See Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., "General Explanation of the Tax Reform Act of 1986" at 1096 (1987); Treas. Reg. sec. 1.985-3.

[3] An individual who actively participates in a rental real estate activity and holds at least a 10 percent interest may deduct up to $25,000 of passive losses. The $25,000 amount phases out as the individual's income increases from $100,000 to $150,000.

The $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the income phaseout range for the $25,000 allowance for these credits is $200,000 to $250,000 (rather than $100,000 to $150,000). For interests acquired after December 31, 1989 in partnerships holding property placed in service after that date, the $25,000 deduction-equivalent allowance is permitted for the low-income housing credit without regard to the taxpayer's income.

[4] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income are applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[5] A large partnership is allowed a deduction under section 212 for expenses incurred for the production of income, subject to 70-percent disallowance, as described below.

[6] Any excess of net short-term capital gain over net long-term capital loss is consolidated with the partnership's other taxable income and is not separately reported.

[7] The "70 percent" figure is intended to approximate the amount of such deductions that would be denied at the partner level as a result of the two-percent floor.

[8] It is intended that the rehabilitation and low-income housing credits which are subject to the same passive loss rules (i.e., in the case of the low-income housing credit, where the partnership interest was acquired or the property was placed in service before 1990) could be reported together on the same line.

[9] Precontribution gain is the excess of the fair market value of the contributed property at the time of contribution over the adjusted basis of such property immediately before such contribution. Precontribution loss is the excess of the adjusted basis of such property over its fair market value.

[10] Amounts recognized by reason of these recognition events are taken into account in the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

[11] It is intended that a deceased partner's successor in interest would not recognize any remaining precontribution gain or loss.

[12] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year; persons holding indirectly (e.g., through another partnership) are not counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

[13] For this purpose, oil or gas properties means the mineral interests in oil or gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

[14] The bill also excludes from the audit provisions partners who are excluded from the reporting rules. Such a partner who is excluded from the audit rules, however, is excluded only to the extent his or her interest in the partnership in the year in which an adjustment took effect does not exceed his or her interest in the partnership taxable year to which the adjustment related.

[15] Tax Equity and Fiscal Responsibility Act of 1982.

[16] For example, the "once a PFIC always a PFIC" rule of sec. 1297(b)(1) does not apply to shareholders that make current-inclusion elections.

[17] It is understood that a mutual insurance company could be treated under the bill and under present law as a passive foreign corporation, notwithstanding the fact that such a company does not actually issue "stock."

[18] Thus, the bill retains the exception for income derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation. It is intended that in determining whether a corporation is "predominantly engaged" for this purpose, the Secretary may require a higher

standard or threshold than the definition of an insurance company under Treasury Regulations section 1.801-3(a).

[19] H.R. Rep. No. 100-795, 100th Cong., 2d Sess. 272 (1988); S. Rep. No. 100-445, 100th Cong., 2d Sess. 285 (1988).

[20] The bill retains the present law rules that provide an exception from the definition of a PFIC in the case of a start-up company (current sec. 1297(b)(2)). Under the bill, the start-up company exception is intended to be applied, where necessary to carry out the purposes of the PFC rules, by treating as one corporation all related foreign corporations that transferred assets to the start-up company.

[21] For this purpose, it is intended that proportionate ownership will take into account any special or discretionary allocations of the distributions or gains with respect to stock in the passive foreign corporation.

[22] All citizens (and residents) of the United States are included, irrespective of residence in a U.S. commonwealth or possession.

[23] This rule was included in the definition of foreign personal holding company income for purposes of subpart F prior to the amendments included in the 1986 Act.

[24] See, e.g., Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess. "General Explanation of the Tax Reform Act of 1986" at 6 et seq. (1987) ("General Reasons For The Act").

[25] Also, note that in *Commissioner* v. *American Metal Co.*, 221 F.2d 134, 141 (2d. Cir.), cert. denied, 350 U.S. 879 (1955), where a foreign corporation kept its books in U.S. dollars, foreign taxes were translated as of their payment date.

[26] Proposed Treasury Regulation sec. 1.1361-1(1)(2).

[27] This is the effective date of the present-law provision regarding inadvertent terminations.

[28] See section 1366(d)(1)(A); H. Rep. 97-826, p. 17; S. Rep. 97-640, p. 18.

[29] Treas. Reg. sec. 1.704-1(d)(2); Rev. Rul. 66-94, 1966-1 C.B. 166.

[30] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

[31] See PLR 8818049, (Feb. 10, 1988).

[32] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

[33] See S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

[34] Treas. Reg. sec. 1.742-1.

[35] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

[36] See, e.g., *Jalkut Estate* v. *Commissioner*. 96 T.C. No. 27 (April 29, 1991) (transfers from revocable trust to permissible beneficiaries of the trust includible in the grantor's gross estate); LTR 9117003 (same).

THE ELECTRICITY POLICY ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BOUCHER] is recognized for 5 minutes.

Mr. BOUCHER. Mr. Speaker, I am pleased to join with my colleagues, Mr. TAUZIN and Mr. BLILEY, in introducing this legislation which will reform the Public Utility Holding Company Act of 1935. The primary purpose of PUHCA reform is to promote competition in the generation of electricity. By removing the present regulatory barriers which inhibit investment in the electricity generation market, thereby opening the market for wholesale generation, utilities are provided with greater choice among electricity generators. Increased competition will produce positive economic results, benefits to consumers and an improvement in the environment. The many benefits of competition can only be achieved, however, if new generators of electricity are provided access to transmission at a reasonable cost.

In 1935, when the Public Utility Holding Company Act was enacted, the generation of electricity was believed to be a natural monopoly. In the intervening 56 years, it has become clear that entrepreneurs, as well as public utilities, can construct and operate reliable electricity generation facilities. Indeed, entrepreneurs have an incentive to produce more economically and efficiently than public utilities.

By allowing independent power producers freely into the market, facilities will be sited in the most economic manner. This often means siting facilities near the locale of the feedstock production, whether at the well-head or at the mine mouth, reducing the cost and environmental effect of having to transfer fuels over great distances. The construction of facilities near coal mines, for example, will result in substantial economic benefits for the host community. According to the Virginia Center for Coal & Energy Research, each 100 megawatts of generating capacity would produce $1.3 million in wages, contribute $750,000 in property taxes, and consume 350,000 tons of coal annually.

To compete successfully in the open market of electricity generation, independent power producers will experiment with innovative technologies to make electricity generation more efficient. In the electricity market, efficiency will mean economic advantage. The more Btu's an independent power producer can generate from a single unit of fuel, the more competitive its price, thus making the independent power producer more likely to find a buyer. This incentive toward efficiency is stifled under the present PUHCA regime.

Today, if a utility develops a better way to generate power, all cost reductions belong to the customer, removing the utility's incentive to reduce costs. Under reformed PUHCA, however, both customers and business can profit from the increased efficiency which is born of technological change. Competition provides the incentive for focusing increased engineering and business talent on finding better ways to provide power more efficiently.

Increased efficiency brought about by competition not only will benefit customers economically, it will benefit all of us environmentally. By definition, greater efficiency means a reduction in the amount of fuel consumption required for energy production. This reduction necessarily limits any ill effects which fuel consumption may produce.

For PUHCA reform to be effective, however, independent power producers must have access to the relevant markets. The notions of competition and choice among power producers have no meaning if the product which they produce—electricity—cannot get to the market. The independent power producer must have access to the transmission grid if the reform program is to have its desired effect of increasing competition and choice.

Mr. TAUZIN. Mr. Speaker, today, along with two colleagues on the Energy and Commerce Committee, Mr. BLILEY and Mr. BOUCHER, I am introducing legislation designed to create increased competition in the Nation's electric power industry. The Electricity Policy Act of 1991 will accomplish this by removing barriers to market entry imposed by the Public Utility Holding Company Act of 1935 and ensuring that the Federal Energy Regulatory Commission has the authority to ensure that all potential competitors have access to transmission services.

Let me first explain the need for this legislation. From the 1930's until the 1970's, the industry structure worked fine. Economies of scale in the generation sector at a time of steady economic growth resulted in quality service often at reduced costs to customers. However, the energy crises of the 1970's changed all this. Fuel prices skyrocketed (as much as 50 percent of generation costs), and inflation and interest rates reached double digit levels. This dramatic increase in the cost of power resulted in the initiation of expensive construction programs by many utilities. At the same time, State utility commissioners refused to allow billions of dollars in those construction costs to be included in rate base. As a result, many utilities became extremely risk averse.

In 1978, Congress passed the Public Utility Regulatory Policy Act to diversify the Nation's power generation resources. This act forced utilities to procure the output of a favored class of third party sources. The act has shown that entities other than monopolies could build powerplants. Indeed, many prospective suppliers structured their projects into PURPA facilities, in order to avoid PUHCA regulation. While PURPA resulted in some instances of inflated rates, it certainly proved that the utility monopoly on the generation of electricity was not the only or the best means of power production. Indeed there are now power suppliers other than QF's capable of competing to supply electricity. Yet, they remain shackled by the Holding Company Act.

Mr. Speaker, I believe that PUHCA impedes the market entry of potentially efficient power suppliers and favors QF's. I do not think policy should favor one group of power suppliers over another. Second, I do not believe that this Nation should rely on a favored class of power supplier to compete equally to meet national requirements. The bill we are introducing would allow all power suppliers to compete equally to supply electricity in wholesale markets. I believe that this competition to supply power will facilitate technological innovation, produce environmentally benign power, and discipline electric rates. The Electricity Policy Act of 1991 accomplishes this goal by removing barriers to market entry under PUHCA. This will increase the number of entities capable of supplying power and expand the options available to utilities to meet customer needs.

Now let me address the issue of transmission. We have addressed transmission, because we do not believe that true competition can evolve without transmission access. We believe that certain provisions of the Federal Power Act are unclear about FERC authority in ordering transmission. Thus, we are providing FERC with the authority to order transmission when certain limited conditions are met. In evaluating the request for transmission, FERC is mandated to consider fully the needs of existing customers and reliability when making their decisions. Under this bill, a wheeling order cannot take place if system reliability is reduced or if existing customers are damaged. The provisions in this bill are based upon the premise that independent power producers require transmission access, if they are to sell their output and expand the options available to utilities to meet their power supply

requirements. Simply put, without a transmission policy which can resolve disputes and ensure fairness, competition will not evolve to the fullest extent practicable.

Mr. Speaker, we need a more efficient power supply system. Electricity is being increasingly utilized to fuel our Nation's economy. Thus, prices need to be at the lowest possible cost. Economic growth demands this. I believe we can begin by expanding the potential nexus of power suppliers and allowing them to compete fairly. This legislation is not perfect and we know, through dialog, issues relating to State/Federal relations as well as others will have to be addressed. We hope that this legislation initiates this critical debate on the future of the electric power industry.

Mr. BLILEY. Mr. Speaker, earlier this spring, President Bush and Admiral Watkins put forth a comprehensive national energy strategy. I compliment the President and his team for their leadership on the issue. Their proposal is strong, innovative and correctly relies on both emerging technologies and market principles.

In the House, the Republicans built on the President's leadership and introduced our own national energy strategy. This proposal addresses the three main points necessary for a successful energy plan: conservation, efficiency, and development of domestic energy sources.

Now I think that all three of these principles are incorporated in a provision of particular concern to me, the reform of the Public Utility Holding Company Act. The Public Utility Holding Company Act [PUHCA] was passed in 1935 to protect ratepayers from real-live abuses by utilities. Over the years the law has served us well; however, the lawmakers of that day could not envision the development of the independent power producer.

In 1978 Congress passed the Public Utilities Regulatory Policies Act [PURPA] brought into existence a new entity called a nonutility cogenerator. In the decade since PURPA's enactment, over 20 percent of new electricity generating capacity has been supplied by nonutility generators. Just as important, this generation has been as reliable or more reliable than that of traditional utility generators.

And the trends would indicate an even larger role for these independent power producers. The Department of Energy estimates that even with strong conservation measures that this Nation will require from 50 to 100 gigawatts of increased electric capacity. This is equivalent to 500 to 1,000 new power plants. By the year 2010, 40 percent of our Nation's energy demand will be electricity.

Unfortunately, we have squeezed nearly every drop of benefit out of PURPA. We are rapidly running out of suitable steam-hosts that would allow these IPP's to qualify as facilities under PURPA.

Without the benefit of a steam-host, these IPP's are forced to comply under the untenable requirements of PUHCA. Attempts by IPP's to work within this 1935 law have created what one lawyer has termed: "The PUHCA Pretzel", a legal and financial labyrinth that robs the IPP of its efficiencies.

Now if this new industry is to grow to fruition, we must remove the PUHCA impediment. I recognize that PUHCA was created to address real abuses by real utilities and I do not advocate the scrapping of the law. I do believe that we can refine the law to retain the present protection for the rate payer while encouraging the benefits of increased competition.

And there are great benefits to allowing competition into the wholesale electric generating industry. The Department of Energy estimates that full-fledged competition will bring savings of nearly $2 billion per year.

Beyond these initial savings to the ratepayer will be the boon to industry. Lower energy costs means lower cost products and services. We will need every advantage when competing with Asia and a unified Europe.

Finally, let us not forget the benefits of the synergy of competition. I am reminded that not a single drug has ever been invented in a Communist country. Competition spawns innovation and technology transfer. I am convinced that our best hope for the commercialization for clean coal technology lies in the hands of the entrepreneurs. Our environment and economy can benefit from the creativity of the private sector.

"For market competition," writes Economist Todd Bucholz, "leads a self-interested person to wake up in the morning, look outside at the Earth and produced from its abundance, not what he wants, but what others want. Not in the quantities he prefers, but in the quantities his neighbors prefer. Not at the price that he dreams of charging, but at the price reflecting how much his neighbors value what he has done." We need to encourage these values in the electric industry, and I believe that the legislation introduced today is predicated on the assumption that market competition should replace control whenever and wherever possible for the benefit of the American consumer.

The legislation introduced today addresses PUHCA reform in a thorough and comprehensive manner. It removes the outdated barriers to competition; yet, builds on the current law to ensure maximum consumer protection. Just as noteworthy, this legislation expands on the current trend towards a more open, more efficiently utilized transmission system. This added enhancement will allow this Nation to fully enjoy the benefits of competition.

I want to commend my colleague from Louisiana, Mr. TAUZIN, and my fellow Virginian, Mr. BOUCHER, for their leadership on the issue. Their unique perspectives and individual talents have combined to make this legislation more substantial and credible. I also want to note the efforts on the part of the chairman of the Energy and Power Subcommittee, Mr. SHARP, for using his resources to push the debate towards maturation. I look forward to working with these gentlemen as we continue the process.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. COLLINS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. ORTIZ, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mrs. LOWEY of New York, for 60 minutes, today.

Mr. ROSTENKOWSKI, for 60 minutes, today.

(The following Member (at the request of Mr. MCCLOSKEY) to revise and extend his remarks and include extraneous material:)

Mr. BOUCHER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GILLMOR) and to include extraneous matter:)

Mr. LAGOMARSINO.

Mr. COMBEST.

Mr. GILMAN.

Mr. DORNAN of California.

Mr. BEREUTER.

(The following Members (at the request of Mrs. COLLINS of Illinois) and to include extraneous matter:)

Mr. DINGELL.

Ms. LONG.

Mr. ECKART.

Mr. HARRIS.

Mr. SWETT.

Mr. HOYER.

Mr. HALL of Ohio.

Mrs. LOWEY of New York.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 36. Joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 40. Joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 72. Joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 73. Joint resolution designating October 1991 as "National Domestic Violence Awareness Month" to the Committee on Post Office and Civil Service.

S.J. Res. 78. Joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 92. Joint resolution to designate July 28, 1991, as "Buffalo Soldiers Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 121. Joint resolution designating September 12, 1991, as "National D.A.R.E. Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 125. Joint resolution to designate October 1991, as "Polish-American Heritage Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 126. Joint resolution to designate the Second Sunday in October of 1991, as "National Children's Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 138. Joint resolution designating August 6, 1991, as "National Neighborhood Crime Watch Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 142. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 154. Joint resolution to designate August 1, 1991, as "Helsinki Human Rights Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 156. Joint resolution to designate the week of October 6, 1991, through October 12, 1991, as "Mental Illness Awareness Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED JOINT RESOLUTION

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a joint resolution of the House of the following title:

H.J. Res. 749. Joint resolution to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia.

ADJOURNMENT

Mr. FRANK of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 175 of the 102d Congress, the House stands adjourned until 12 o'clock meridian, Tuesday, July 9, 1991.

Thereupon (at 1 o'clock and 24 minutes p.m.), pursuant to House Concurrent Resolution 175, the House adjourned until Tuesday, July 9, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1638. A letter from the Secretary of Energy, transmitting the annual report entitled "Program Status of Preparations for Further Limitations on Nuclear Testing for 1990"; to the Committee on Armed Services.

1639. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting AID's report on Cambodia's Humanitarian and Development Assistance Priorities, pursuant to Public Law 101-513, section 562A(d)(2) (104 Stat. 2038); jointly to the Committees on Appropriations and Foreign Affairs.

1640. A letter from the Secretary of Transportation, transmitting the 1990 report on the valuation of the U.S. Coast Guard military retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1641. A letter from the Director, Office of Management and Budget, transmitting the second annual report on negotiations concerning offsets in military exports, pursuant to 50 U.S.C. 2099; jointly, to the Committees on Banking, Finance and Urban Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; with an amendment (Rept. 102-57, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 2. A bill to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employee's employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; with amendments (Rept. 162-135 Pt. 1). And ordered to be printed.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2. A bill to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; with amendments (Rept. 102-135, Pt. 2). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWIFT (for himself, Mr. BROWN, Mr. DREIER of California, and Mr. BOEHLERT):

H.R. 2806. A bill to amend the Earthquake Hazards Reduction Act of 1977 to encourage implementation of research results, to protect life and property, and to facilitate the provision of insurance against the risk of catastrophic earthquakes and volcanic eruptions, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Banking, Finance and Urban Affairs.

By Mr. AUCOIN (for himself, Mr. WYDEN, Mr. DEFAZIO, and Mr. KOPETSKI):

H.R. 2807. A bill to provide a balanced solution to the current timber-based crisis in Oregon, Washington and northern California by establishing an ecologically significant old growth forest reserve system, ensuring the conservation of the northern spotted owl and the protection of other species associated with old growth forests, securing a predictable supply of timber to afford stability to timber dependent communities in the region, and providing economic adjustment assistance to communities and employees dependent on the forest industry; jointly, to the Committees on Agriculture, Interior and Insular Affairs, Merchant Marine and Fisheries, Science, Space, and Technology, Education and Labor, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. BAKER:

H.R. 2808. A bill to direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA; to the Committee on Interior and Insular Affairs.

By Mr. SHARP:

H.R. 2809. A bill to streamline the environmental process for natural gas pipelines; to the Committee on Energy and Commerce.

By Mr. MICHEL (for himself, Mr. COUGHLIN, Mr. RANGEL, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. VANDER JAGT, Mr. FISH, Mr. LENT, Mr. DAVIS, Mr. SHAW, Mr. SENSENBRENNER, Mr. RAMSTAD, Mr. GILMAN, Mr. DORNAN of California, Mr. INHOFE, Mr. GILLMOR, Mr. CLINGER, Mr. SHAYS, Mr. OXLEY, Mr. HERGER, Mr. LAGOMARSINO, Mr. DICKINSON, Mr. SKEEN, Mr. BUNNING, Mr. KYL, Mr. MCEWEN, Mr. HOBSON, Mr. RAVENEL, Mr. ZELIFF, Mr. SOLOMON, Mr. MCMILLAN of North Carolina, Mr. BOEHNER, Mr. WELDON, Mr. SANTORUM, Mr. GALLEGLY, Mr. HANSEN, Mr. HAMMERSCHMIDT, Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, Mr. BARTON of Texas, Mr. TAYLOR of North Carolina, Mrs. VUCANOVICH, Mr. BILIRAKIS, Mr. RITTER, Mr. PACKARD, Mr. YOUNG of Florida, Mr. MILLER of Ohio, Mr. WALKER, Mrs. JOHNSON of Connecticut, and Mr. RIGGS):

H.R. 2810. A bill to expand the Nation's drug treatment capacity, promote drug-free and safe schools, require statewide drug abuse prevention and treatment plans, and ensure that new Federal grant dollars provided for treatment services do not displace State dollars; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. COSTELLO:

H.R. 2811. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain on long-term real property which is involuntarily converted as the result of the exercise of eminent domain, without regard to whether the replacement

property is similar or of like kind; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. McDERMOTT, Mr. FASCELL, Mr. HORTON, Mr. WOLF, Mr. DeFAZIO, Mr. WOLPE, Mrs. SCHROEDER, and Mr. BOEHLERT):

H.R. 2812. A bill to direct the Administrator of General Services to issue regulations to provide for the installation of bicycle racks or lockers at Federal office buildings, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 2813. A bill to provide that law enforcement officers and other Federal employees in the Santa Barbara, CA, Primary Metropolitan Statistical Area be treated, for purposes of certain pay provisions of the Federal Employees Pay Comparability Act of 1990, in the same manner as if they were serving in the Los Angeles-Anaheim-Riverside, CA, Consolidated Metropolitan Statistical Area; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California:

H.R. 2814. A bill to combat crime; jointly, to the Committees on the Judiciary, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. McEWEN:

H.R. 2815. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents; jointly, to the Committees on the Judiciary, Public Works and Transportation, and Energy and Commerce.

By Mr. MILLER of California:

H.R. 2816. A bill to remove a restriction from a portion of a parcel of land acquired by the city of Pittsburg, CA, in order for that portion to be used for a fire station; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California (for himself, Mr. BILBRAY, Mr. PANETTA, Mr. MATSUI, Mr. GALLEGLY, Mr. OWENS of Utah, Mr. KOPETSKI, Mr. LOWERY of California, Mr. DANNEMEYER, Mr. LANTOS, Mr. BERMAN, Mr. DELLUMS, Mr. BROWN, Mr. ABERCROMBIE, Mr. CUNNINGHAM, Mr. EDWARDS of California, Mr. ROYBAL, Ms. PELOSI, Ms. WATERS, Mr. MARTINEZ, Mr. FAZIO, Mr. LEHMAN of California, Mr. STARK, Mr. MINETA, Mr. LEVINE of California, Mr. HANSEN, Mr. SMITH of Florida, Mrs. BOXER, and Mr. JONTZ):

H.R. 2817. A bill to require the Secretary of the Interior to conduct studies regarding the desalting of water and water reuse, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OLVER (for himself, Mr. MOAKLEY, Mr. ATKINS, Mr. DONNELLY, Mr. FRANK of Massachusetts, Mr. KENNEDY, Mr. MARKEY, Mr. MAVROULES, Mr. NEAL of Massachusetts, and Mr. STUDDS):

H.R. 2818. A bill to designate the Federal building located at 76 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building", and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PERKINS (for himself and Mr. GRAY):

H.R. 2819. A bill to provide financial assistance to eligible local educational agencies to improve rural education, and for other purposes; to the Committee on Education and Labor.

By Mr. REED (by request):

H.R. 2820. A bill to authorize the Indian Village housing development, located in Providence, RI, to provide preference of native Americans in carrying out activities with Federal assistance amounts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHARDSON:

H.R. 2821. A bill to allow Indian tribes to condition provision of tribal education funds to maximize availability of human resources in critical areas of need of tribal members; to the Committee on Education and Labor.

H.R. 2822. A bill to establish the Rio Grande Del Norte National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2823. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for severance taxes and personal property taxes paid to an Indian tribal government; to the Committee on Ways and Means.

By Mr. ROWLAND (for himself and Mr. PENNY):

H.R. 2824. A bill to provide for demonstration projects to test the feasibility of broader use of arrangements between the Department of Veterans Affairs and other Federal health-care providers for the sharing of health-care resources, and for other purposes; jointly, to the Committees on Veterans' Affairs, Armed Services, Energy and Commerce, and Ways and Means.

By Mr. TAUZIN (for himself, Mr. BILLEY, and Mr. BOUCHER):

H.R. 2825. A bill to facilitate powerplant ownership by those able to build and operate electric powerplants at the lowest reasonable cost in order to ensure an adequate and economical supply of electricity in the United States and to encourage fuel and capital conservation in the generation of electricity, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VENTO (for himself, Mr. MILLER of California, Mr. LAGOMARSINO, Mr. RAHALL, Mr. DE LUGO, Mr. KOSTMAYER, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. BEREUTER, and Mr. LEACH):

H.R. 2826. A bill to require action to protect Antarctica by directing the Secretary of the Interior to prepare a plan for establishing an Antarctica World Park, to require interim protection of Antarctica, and for other purposes; jointly, to the Committee on Merchant Marine and Fisheries, Interior and Insular Affairs, Science, Space, and Technology, and Foreign Affairs.

By Mr. WYDEN:

H.R. 2827. A bill to amend the Controlled Substances Act to provide for the registration of handlers of precursors and eliminate the exemption from certain regulatory provisions of drugs in capsule form, and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. COX of California (for himself, Mr. THOMAS of Wyoming, Mr. WALKER, Ms. ROS-LEHTINEN, Mr. DOOLITTLE, Mr. ROTH, Mr. IRELAND, Mr. STEARNS, Mr. HANCOCK, Mr. BALLENGER, Mr. GINGRICH, Mr. KYL, Mr. VANDER JAGT, Mr. ROHRABACHER, Mr. HORTON, Mr. PAYNE of Virginia, Mr. LENT, Mr. DUNCAN, Mr. MACHTLEY, Mr. PAXON, Mr. DWYER of New Jersey, Mr. KLUG, Mr. FROST, and Mr. DeLAY):

H.J. Res. 292. Joint resolution expressing the sense of Congress that the Republic of Hungary has embraced democracy and renounced socialist rule; to the Committee on Foreign Affairs.

By Mr. HOYER:

H. Res. 186. Resolution designating majority membership on certain standing committees; considered and agreed to.

By Mr. SLATTERY:

H. Res. 187. Resolution to amend the Rules of the House of Representatives to establish certain requirements on the consideration of appropriation bills and conference reports on appropriation bills; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

206. By the SPEAKER: Memorial of the Legislature of the State of Minnesota, relative to the dairy industry; to the Committee on Agriculture.

207. Also, memorial of the Legislature of the State of Nebraska, relative to mining; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. OLVER.

H.R. 33: Mr. RINALDO.

H.R. 66: Mrs. UNSOELD.

H.R. 311: Mr. HOLLOWAY.

H.R. 392: Mr. SHARP.

H.R. 534: Mr. COBLE, Mr. SKELTON, Mr. SARPALIUS, Mr. HASTERT, Mr. SCHULZE, Mr. PERKINS, Mr. JONES of Georgia, Mr. LIGHTFOOT, Mr. OXLEY, AND Mr. TANNER.

H.R. 670: Mr. LANCASTER, Ms. NORTON, and Mr. ESPY.

H.R. 783: Mr. COMBEST.

H.R. 951: Mr. McMILLAN of North Carolina, Mr. BILIRAKIS, Mr. GOSS, Mr. WILSON, Mr. SPRATT, Mr. KYL, and Mr. FORD of Michigan.

H.R. 1007: Mr. PAYNE of Virginia, Mr. ROGERS, Mr. LEACH, Mr. LANCASTER, Mrs. PATTERSON, Mr. COBLE, Mr. NICHOLS, Mr. SPENCE, and Mr. SPRATT.

H.R. 1067: Mr. DE LUGO, Ms. ROS-LEHTINEN, Mr. LIGHTFOOT, Mr. NUSSLE, Mr. McMILLEN of Maryland, Mr. OWENS of New York, Mr. BROOKS, Mr. KASICH, Mr. McEWEN, Mr. McMILLAN of North Carolina, Mr. LAFALCE, Mr. GONZALEZ, Mr. HAYES of Louisiana, Ms. NORTON, Mr. CHAPMAN, Mr. SAWYER, Mr. MILLER of Ohio, Mr. EARLY, and Mr. ROYBAL.

H.R. 1156: Mr. ABERCROMBIE and Mr. HOCHBRUECKNER.

H.R. 1259: Mr. PORTER, Mr. FAWELL, Mr. GINGRICH, Ms. HORN, and Mr. ANDREWS of New Jersey.

H.R. 1300: Mr. SCHEUER.

H.R. 1335: Mr. RAHALL.

H.R. 1378: Mr. TAYLOR of North Carolina.

H.R. 1379: Mr. McNULTY.

H.R. 1389: Mr. SMITH of New Jersey.

H.R. 1406: Mr. YATRON and Mr. SPENCE.

H.R. 1450: Mr. FORD of Tennessee, Mr. ALEXANDER, Mr. GIBBONS, Mr. HASTERT, Mr. SAXTON, Mr. GALLO, and Mr. McHUGH.

H.R. 1466: Mr. ERDREICH and Mr. KENNEDY.

H.R. 1527: Mr. REED, Mr. McGRATH, Mr. RANGEL, Mr. HENRY, and Mr. SLAUGHTER of Virginia.

H.R. 1566: Mr. ANDREWS of Texas and Mr. SHAYS.

H.R. 1746: Mr. COSTELLO, Mr. HUTTO, Mr. McCLOSKEY, and Mr. PETERSON of Florida.

H.R. 1782: Mr. RICHARDSON, Mr. GREEN of New York, Mr. PETERSON of Florida, Mr.

DYMALLY, Mr. HOYER, and Mr. MILLER of Washington.

H.R. 2046: Mr. BATEMAN, Mr. RAY, and LIPINSKI.

H.R. 2115: Ms. SLAUGHTER of New York.

H.R. 2228: Mr. BLAZ and Mr. MILLER of California.

H.R. 2244: Mrs. LOWEY of New York and Mr. MFUME.

H.R. 2305: Mr. FROST.

H.R. 2336: Mr. STENHOLM, Mr. FORD of Tennessee, Mr. CUNNINGHAM, and Mr. MILLER of Ohio.

H.R. 2380: Mr. VOLKMER.

H.R. 2493: Mr. DANNEMEYER and Mr. PORTER.

H.R. 2515: Mr. MCHUGH, Mr. NICHOLS, and Mrs. MORELLA.

H.R. 2579: Mr. SKEEN.

H.R. 2661: Mr. SCHEUER, Mr. FROST, and Mr. ENGLISH.

H.R. 2715: Mr. RANGEL.

H.J. Res. 23: Mr. EDWARDS of Oklahoma, Mr. FASCELL, Mrs. JOHNSON of Connecticut, Mrs. KENNELLY, Mr. MANTON, Mr. MOODY, Mr. SAXTON, and Mr. SCHAEFER.

H.J. Res. 27: Mr. MURTHA.

H.J. Res. 102: Mr. BURTON of Indiana, Mr. DONNELLY, Mr. DICKS, Mr. DYMALLY, Mr. EVANS, Mr. COUGHLIN, Mr. KILDEE, Mr. WEBER, Mr. LEACH, Mr. HALL of Ohio, Mr. MICHEL, Mr. MILLER of Ohio, Mr. ATKINS, Mr. INHOFE, Mr. BERMAN, and Mr. EDWARDS of Oklahoma.

H.J. Res. 229: Mr. SMITH of Texas, Mr. SABO, Mr. BLILEY, Mr. WAXMAN, and Mr. FIELDS.

H.J. Res. 233: Mr. MACHTLEY.

H.J. Res. 269: Mr. SAVAGE, Mr. NEAL of Massachusetts, Mr. ANNUNZIO, Ms. LONG, Mr. PURSELL, Mr. TRAFICANT, Mr. PALLONE, Mrs. UNSOELD, Mrs. MORELLA, Mr. MCGRATH, Mr. MCNULTY, Mr. RAHALL, Ms. NORTON, Mr. DEFAZIO, and Mr. JOHNSTON of Florida.

H.J. Res. 271: Mr. ABERCROMBIE, Ms. PELOSI, Ms. NORTON, Mr. MCDERMOTT, Mr. SMITH of Florida, Mr. GORDON, Mr. DANNEMEYER, Mr. JEFFERSON, Mr. CRAMER, Mr. TORRES, Mr. SERRANO, Mr. MCNULTY, Mr. DYMALLY, Mr. RANGEL, and Mr. LAGOMARSINO.

H. Con. Res. 126: Mr. MCDERMOTT, Mr. WAXMAN, and Mr. LEWIS of Georgia.

H. Con. Res. 154: Mr. BRYANT, Mr. GEREN of Texas, and Mr. JOHNSON of Texas.

H. Con. Res. 163: Ms. KAPTUR.

H. Con. Res. 171: Mr. SMITH of Florida, Mr. JONTZ, Mr. BATEMAN, Mr. MCNULTY, Mr. KOSTMAYER, and Mr. PALLONE.

H. Res. 167: Mr. APPLEGATE, Mr. MILLER of Ohio, Mr. FROST, and Mr. HALL of Ohio.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

96. By the SPEAKER: Petition of King County Council, King County, WA, relative to funded family planning clinics; to the Committee on Energy and Commerce.

97. Also, petition of Embassy of the Republic of Nicaragua, Washington, DC, relative to terrorist acts; to the Committee on Foreign Affairs.

SENATE—*Thursday, June 27, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteous lips are the delight of kings; and they love him that speaketh right.—Proverbs 16:13.

When the righteous are in authority, the people rejoice * * *.—Proverbs 29:2.

* * * *the righteous are as bold as a lion.*—Proverbs 28:1.

God of our fathers, perfect in righteousness and justice, on this morning after the formal presentation of Senator BYRD's second volume of "The History of the Senate," with profound gratitude we express our appreciation for this uncommon man, this bold statesman, and for the labor of his hand. At this contradictory time in world affairs, as cynicism about our political system grows in America, half the world covets the secret of America's greatness and the effective working of its government for more than 200 years. Thank you for this book which not only reveals the facts about the U.S. Senate but reflects the respect and the reverence in which the Senate is held by the author.

Grant, mighty God, that this history will enjoy extensive and intensive examination by the people and their leaders.

In the name of the Lord of history. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 27, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein, with the time between 9 o'clock and 9:20 under the control of the Senator from Nevada [Mr. BRYAN]; the time between 9:20 and 9:40 under the control of the Senator from Louisiana [Mr. JOHNSTON]; the time between 9:40 and 10 under the control of the Senator from Maine [Mr. MITCHELL].

Mr. BRYAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. BRYAN. Mr. President, I yield myself 8 minutes.

NATIONAL ENERGY SECURITY ACT

Mr. BRYAN. Mr. President, it has been 11 months since the armies of Saddam Hussein abruptly reminded us that we are too dependent on foreign oil. In those months immediately following the August 2 invasion of Kuwait, we watched as oil spiraled to prices not seen since the 1970's. We heard commentary about how vulnerable the Persian Gulf oil fields were to military attack. We are now in a recession that many analysts believe was made deeper by the Iraqi invasion.

America was reminded night after night through the network news of the high price we paid because of our dependence on foreign oil. We were reminded by the sight of the military buildup, and then the clash of arms that followed.

The shocking element in this story is that America has been there before. Three times in two decades America has been shown that tying our economic umbilical cord to the Middle East is too dangerous.

Beginning in 1973, the OPEC nations sought to punish America for our support of the State of Israel by imposing an oil embargo. Gas lines, shortages, and recession followed.

Again, in 1979, the fall of the Shah in Iran led to a massive runup of oil prices. Recession and inflation followed.

And then the third oil shock came with Saddam Hussein's invasion last year. Price runups and a plunge in consumer confidence followed, leading to a deeper recession.

While America's involvement in the Persian Gulf conflict has many causes, there is little doubt of the importance of oil. Our dependency on imported oil played no small part in the deployment of half a million American men and women to the gulf.

Three oil shocks, recession, inflation, and war—this is the cost of our dependence. It does not take a crystal ball to look at what America will face in the future, growing more dependent on a region in the world which has not known peace in a millennium.

It would be the height of arrogance and wishful thinking to believe that we will not face additional crisis and instability in this troubled region of our world.

Congress and the President must address this dangerous dependence. We must move away from our dependence on oil and move toward the use of renewable and alternative fuels. Mr. President, we must conserve.

S. 1220 does not address what should be our fundamental energy policy goals.

We cannot drill our way out of this dependence, even if we were willing to put aside our concern for the environment. It is worth noting that the advocates for increased drilling in the Arctic National Wildlife Refuge and other sensitive coastal regions do not claim that drilling will reduce our dependence. The oil industry poses a false choice between taking environmentally risky actions or increasing our dependence.

But that is not the choice we face.

We can move toward renewable and alternative fuels. We can increase energy conservation, especially with the automobile fleet. An improvement of 40 percent in the automobile fuel economy standards will save America 25 percent of all the oil we are importing today. A saving of 2.5 million barrels of oil per day as a result of improving automobile fuel economy is as much as eight times the amount of oil we may possibly gain from drilling in the Arctic Wildlife Refuge.

S. 1220 poses several false choices. It is argued that damaging the Arctic refuge and running risks on the Outer Continental Shelf is necessary. That reducing nuclear licensing requirements is necessary and can be done safely in order to increase electrical generation. That reducing consumer oversight of utilities is necessary to in-

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

crease electric power generation. These, Mr. President, in my judgment, are all false choices and are lightning rods for opposition.

The so-called Public Utility Holding Company Act [PUHCA] reform is a deceptive measure which would actually encourage utility monopolies, and reduce State oversight and consumer protection. This provision of the bill encourages construction of new conventional baseload generating facilities, while diminishing incentives for least-cost utility planning, energy efficiency, and renewable energy sources. This provision threatens the consumer as well as the financial soundness of the electric utility industry, at the same time doing virtually nothing to improve our energy security.

S. 1220 is an energy industry bill, not an energy strategy for the Nation. Senators who want to see an approach emphasizing reducing oil consumption, protecting the consumer, and not sacrificing environmentally sensitive areas must say "no."

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BRYAN. Mr. President, I yield to the distinguished Senator from Connecticut 7 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

NATIONAL ENERGY POLICY

Mr. LIEBERMAN. I thank the Chair and I thank my colleague from Nevada.

Mr. President, on the floor of the Senate, we join the national debate over energy policy. It is a critical debate to our Nation's future. It is not surprising that this is a debate and we approach it from different points of view, because what is involved is a pressing need to change and how to change. A controversy always occurs when change is necessary.

May I say, Mr. President, that while on this occasion I speak in disagreement of the work of the chairman of the Energy Committee, the distinguished senior Senator from Louisiana, I do so with great respect and, may I say, affection. We share a common interest. We just approach it from different directions.

Mr. President, our Nation is in need of an energy policy and strategy that will lead us into the 21st century. Our present policy relies too much on oil, particularly foreign oil. And our strategy is to buy, produce, and burn more of it. That is neither the policy nor the strategy designed to deliver our Nation a secure economy or a healthy environment. The war in the Persian Gulf should be ample reminder of the threat this reliance on oil poses to our national security.

The response of the administration to these concerns has been to propose legislation which would not only continue our reliance on oil and other polluting sources, but increase it by proposing programs for petroleum exploration and production, as if we could produce enough oil at home to lessen our dependence on oil abroad. I spoke out against that plan when it was first released earlier this year, and now I must speak out again—this time against the same plan in a different form. S. 1220, the National Energy Security Act, has been reported out of the Energy and Natural Resources Committee, and it may come to the floor soon for a vote. In my view, this act is not the national energy plan our country desperately needs.

Mr. President, the Senate is a remarkable body, but we cannot legislate geology. No matter what bills we pass, the great bulk of the Earth's oil will lie under the Middle East. No matter what incentives we provide for domestic production, the United States will still have—at most—only 3 percent of the Earth's oil reserves. The Persian Gulf region, by comparison, has as much as 70 percent of the Earth's oil reserves. As long as we, in this country, continue to use 25 percent of those reserves, we will be dependent on foreign oil—no matter how much we produce at home. We cannot wean ourselves from dependence on foreign oil unless we wean ourselves from dependence on oil itself. Any national energy policy or strategy must move us in that direction. That is why I am so concerned about the plan which may soon come before us—it does precisely the opposite.

Consider the centerpiece of S. 1220 and of the administration's energy bill—opening up the Arctic National Wildlife Refuge to oil exploration. The administration's most optimistic estimates of how much economically recoverable oil there might be in the Arctic refuge adds up to a 200 days' supply for our country—if there's any oil there at all, which is not certain. But say there is; 200 days of domestic oil would not ease our dependence on foreign oil. Two hundred days of domestic oil would not lower the price of oil or protect us from price shocks. Two hundred days of oil would, however, provide the oil industry with a tidy profit at the expense of one of the great natural areas of the world.

I am not against companies making profit, Mr. President; I just don't think the U.S. Government should be giving away one of its great remaining natural treasures in the guise of energy policy. Just when this country should be seeking ways to move away from dependence on oil the administration comes forward with a plan to dig up a national treasure in order to produce a limited supply. I hope Congress will not go along with it.

Consider for a moment what the Arctic National Wildlife Refuge is and what it represents. It is the only conservation unit in the world which protects a complete working wilderness ecosystem from the boreal forests through the mountains to the high Arctic. That is to say, Mr. President, America is privileged to possess the world's most complete and productive Arctic ecosystem. It is home to one of the last great migratory game herds in the world. The porcupine caribou, 180,000 strong, migrate across Canada and the Brooks Range to the coastal plain of the Arctic National Wildlife Refuge to calve. The U.S. Department of the Interior has called their migration, arrival, and calving an extraordinary spectacle. The caribou, however, are not solely responsible for the extraordinary nature of this refuge. Polar bear den on the coastal plain. Musk oxen, moose, wolves, arctic foxes, wolverines, and grizzly bear, snow geese, waterfowl, and a variety of shorebirds share the tundra and its rivers. These animals exist on a fragile and limited ecosystem that would be destroyed for a century or more, according to the U.S. Department of the Interior, if we were to allow full oil leasing in this area. Also threatened are the native peoples who rely on a healthy Arctic ecosystem for subsistence. Sarah James, a Gwich'in, testified on behalf of her people before the Subcommittee on Environment and Public Works:

> In my village, about 75 percent of our protein comes from caribou. It's not just what we eat * * * Caribou are * * * in our stories and songs and the whole way of the world * * * it is who we are.

I spend this much time on the value of the Arctic National Wildlife Refuge because Energy Secretary Watkins testified before the Senate Energy and Natural Resources Committee that President Bush would veto any energy legislation that did not include the destruction of the refuge. Is this "who we are," Mr. President, when we urge Brazil not to burn down its rainforests? Is this who we are when we counsel China against reliance on coal or try to guide developing countries away from dependence on chlorofluorocarbons? If the destruction of the last intact and productive ecosystem of its kind in the world in exchange for 200 days' supply of oil and more profits for a handful of oil companies is who we are, how can we hope to convince other countries to join us in an effort to reduce reliance on fossil fuels or chemicals which are proven dangerous to our health and our planet?

Mr. President, the American people exhibit common sense when it comes to energy policy. A nationwide poll conducted by the Alliance to Save Energy found that three out of four Americans believe that reducing energy demand makes more sense than increasing energy supplies—particularly when those supplies are largely comprised of oil. The centerpiece of energy policy legislation coming out of the Congress

should respect and reflect those American values. Sound energy policy should begin with strong conservation measures and effective energy efficiency measures.

The largest user of oil in this country is transportation. While records show that oil consumption has declined in many major sectors of our economy—in electricity generation it is down 50 percent, and industrial use of oil has dropped 10 percent—the use of petroleum in transportation has grown 20 percent since the boycott of 1973. In 1989, transportation accounted for 63 percent of the total oil consumed in this country every day, with more than half the amount allocated to transportation consumed by automobiles.

The Energy and Natural Resources Committee has an opportunity to mandate fuel efficiency in its bill, but it declined. Senator BRYAN has a bill which would raise the fuel economy of automobiles to 40 miles per gallon by the year 2000. Any serious energy policy would have as its centerpiece a strategy such as this. The Department of Transportation estimates that if we pass the Bryan bill this year we could save more than 49 billion gallons of gasoline by the year 2000. By 2005, these fuel economy measures would save more than 10 times the most optimistic estimates of oil to be found in the Arctic National Wildlife Refuge.

Mr. President, these savings would certainly improve the independence of our economy and our ability as Americans to protect the quality of our lives and our standard of living. Eighty-four percent of the American people support increasing the fuel efficiency of automobiles.

But there is another reason we should be seeking to curb our dependence of oil—it is not just the money it will save us or the independence from foreign influence it will secure us. By making millions of automobiles burn less gas, we could dramatically reduce—by 500 million tons—the amount of carbon dioxide that goes into the atmosphere and greatly boost our efforts to slow the threat of global warming.

The very last thing we need right now, Mr. President, is an energy policy that encourages sending more carbon dioxide into the air. But by encouraging more oil exploration, development, and consumption, that is what S. 1220 does.

Carbon dioxide is, everyone agrees, a dangerous greenhouse gas. It accounts for 55 percent of the gases that contribute to global warming. The United States, with about 5 percent of the world's population, generates more than 20 percent of all manmade emissions of carbon dioxide. A recent report by the Congressional Office of Technology concludes that present carbon dioxide levels are already higher than at any time in the past 160,000 years. The National Academy of Sciences in its report, "Policy Implications of Global Warming," notes that the atmospheric concentration of carbon dioxide has increased 25 percent during the last century and is currently increasing at about 0.5 percent per year.

There is widespread agreement among scientists that, in the absence of strong actions, the levels of carbon dioxide will continue to rise dramatically. The International Panel on Climate Change, comprised of scientists from countries around the world, and the U.S. Environmental Protection Agency, have concluded that an immediate 60- to 80-percent reduction in CO_2 emissions is necessary to stabilize concentrations at current levels, in addition to significant reductions in other greenhouse gases.

Mr. President, the National Academy of Sciences states:

> Despite the great uncertainties, greenhouse warming is a potential threat sufficient to justify action now.

The OTA report concludes with this warning:

> We cannot yet predict the magnitude of climatic effects from greenhouse gas emissions with accuracy. But it is clear that the decision to limit emissions cannot await the time when the full impacts are evident. The lag time between emissions of the gases and their full impact is on the order of decades to centuries; so too is the time needed to reverse any effects. Today's emissions thus commit the planet to changes well into the 21st century.

Eighty-four percent of the American public wants automobile fuel efficiency—to save money and gasoline. The leading scientists in the world are telling us we must reduce CO_2 emissions in order to slow global warming. And yet S. 1220 does not mandate fuel economy. Worse, it encourages a costly and dangerous dependence on oil.

It is bad enough, Mr. President, that the administration has failed to come up with an energy policy and the strategies needed to take our Nation into the 21st century; let's not see Congress fail as well. Sound energy policy should begin with strong conservation measures, effective energy efficiency measures, and the means to develop renewable energy sources. And the Federal Government should take the lead in implementing these strategies.

Administration policymakers seem intent on removing the Government as much as possible from the energy marketplace, but they cannot deny this reality—the Government is, at a cost to taxpayers of $4 billion each year, the single largest consumer of energy. At the same time, in the past 10 years, Federal funds for the research and development of alternative fuels has been slashed by nearly 90 percent. There is a way we could make the Federal Government conserve fuel and help develop at least one new alternative energy source. We could mandate that the Federal Government use alternatives such as fuel cells—in a limited way at first—in our Federal facilities. This use would demonstrate their value and stimulate larger markets for their use.

I mention fuel cells, Mr. President, because this technology and our handling of it seems to me to demonstrate just one more way in which a lack of a national energy policy which is responsive to our present dependence on oil is hurting us. Fuel cells are clean, renewable batteries; they are at the leading edge of energy technology, and they were developed largely in this country. But it is other countries—Japan and Germany—which are spending millions to refine and market them. The point is this, Mr. President, we have the technology and the inventiveness; we can develop alternative energy sources such as fuel cells ourselves, or we will end up having to buy them from our competitors in the global market.

Energy policy is economic growth policy. America wastes energy. American industry is the least energy efficient in the world. Our firms are 100 percent less energy efficient than our competitors in Japan and Germany. Than means our products are correspondingly less competitive. I support a new direction in energy policy—not just because our environment demands it, but because our long-term economic growth requires it.

The lack of a comprehensive national energy policy has hurt our Nation in four important ways: Our trade deficit goes up and our domestic economy suffers whenever world oil prices increase; other nations are winning a competitive edge in the development of new energy technologies; human health and the environment suffer because of our continuing use of polluting energy sources; and by continuing our dependence on oil which exists largely in unstable areas of the world, we put our national security at risk. The administration has done nothing to solve these basic problems. Neither does S. 1220 do anything to solve these basic problems—and worse—it has as its centerpiece the demeaning of the Arctic National Wildlife Refuge. We need to make a dramatic departure from the policies of the past and embark on a path toward a more conserving, efficient, clean, prosperous, and secure America. Mr. President, we do not yet have before us the legislation which will accomplish those goals.

I thank the Chair. I yield the floor.

Mr. BRYAN. Mr. President, I yield the remainder of time under my control to the distinguished Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator has until 9:20. The Senator from Minnesota is recognized.

A NATIONAL ENERGY POLICY

Mr. WELLSTONE. Mr. President, first of all, let me just echo the eloquent remarks of the Senators from Nevada and Connecticut.

This Nation desperately needs an energy strategy that responds to the very serious problems we can all foresee: threats to our environment, including global warming caused by our addiction to fossil fuels; vulnerability to energy supply disruptions and the sudden price increases resulting from our heavy dependence on foreign oil; and the decline in economic prosperity and international competitiveness which will be the hallmark of the 21st century if we fail to commit our resources to achieving world leadership in energy efficiency and renewable energy supply technologies.

The time is right for a new strategy. With public attention focused on these problems, with the American people supportive of major shifts to energy conservation, energy efficiency, and renewable energy sources, we have a historic opportunity to redirect our Nation's energy policies to shaping and managing the transition to a sustainable energy future.

Unfortunately, S. 1220 is not a new energy strategy. What began as a very promising Department of Energy effort 2 years ago when Secretary Watkins sponsored public hearings all around our country has been captured and led astray by interest group politics and, I think, White House ideologues.

This bill is fundamentally flawed. It does not change the dangerous direction of our current energy course, and it would be a disastrous framework for U.S. energy policy in the 1990's and on into the 21st century.

Mr. President, instead of the new energy strategy America needs, what has emerged from the Senate Energy Committee is a Christmas tree bedecked with presents energy industries have wanted for years. This bill would allow the Department of Transportation to establish future automobile fuel economy standards, the same agency that has vigorously opposed any increase in standards, the agency that has already rolled back CAFE standards when it had the opportunity.

This bill would mandate that the Arctic National Wildlife Refuge be leased and developed for its possible oil resources. One of the last remaining pristine wilderness areas in the United States would be sacrificed to the oil companies so that they could reap enormous profits for what would amount to at best a meager addition to our Nation's total oil reserves.

This bill would accelerate the licensing of nuclear powerplants by eliminating key public participation provisions and insulating Nuclear Regulatory Commission decisions from judicial review. In its rush to resurrect the moribund nuclear power industry, the bill would trample the rights of the public, and that is wrong.

This bill would authorize billions of tax dollars for nuclear energy and synthetic fuels demonstration projects in the name of advancing nuclear reactor and clean coal technologies.

This bill would advance deregulation of the electric utility industry, reopening the door to monopolistic practices in the wholesale generation of electricity, undermine promising State efforts to promote least-cost electric utility service, and encourage, I fear, the construction of unnecessary new generating capacity.

This bill would expedite gas pipeline construction by running roughshod over the rights of farmers and other property owners, restricting rights of citizens to participate in public hearings, and eliminating environmental review.

This bill would weaken the Clean Air Act under the guise of pollution control. It would allow refurbished power plants to ignore the emission control standards and exempt from public review the air pollution problems that would be caused.

This bill would cancel over $10 billion in debt owed to the U.S. Treasury by the nuclear industry for past uranium enrichment services and subsidize industry costs for cleaning up active uranium processing sites.

These are just some of the problems of this bill which have led me to the decision to vote against it in committee and to oppose it here on the Senate floor.

Mr. President, this is not the energy strategy that the American people want. It is not farsighted, and that is why I believe the bill has to be opposed.

ENERGY EFFICIENCY INITIATIVES IN S. 1220

Mr. JOHNSTON. Mr. President, S. 1220, the National Energy Security Act of 1991 contains the most comprehensive package of energy efficiency proposals currently before Congress. The table of contents of title VI of the bill lists over 25 provisions, including provisions designed to:

Increase energy efficiency in the industrial, commercial and residential sectors of the economy;

Encourage the Federal Government to use energy more efficiently;

Provide incentives to utilities to aggressively promote efficiency;

Assist State and local governments in implementing energy efficiency programs; and

Establish a program for the collection and resuse of used oil that is improperly dumped into the Nation's soil and water.

Virtually all of the energy efficiency proposals presented for the committee's consideration have been included in S. 1220 in some form. While the full Senate may debate how specific provisions should be strengthened or modified, S. 1220 puts nearly all viable nontax energy efficiency policy options into play for consideration by the 102d Congress.

Energy efficiency is an attractive policy option because it is a proven energy resource, and because it provides substantial environmental and economic benefits to the Nation in addition to enhancing national energy security. Since 1973, U.S. energy use has increased by 8 percent, while GNP has increased by 46 percent. This is a 30-percent reduction in energy use below that projected in 1973. The Department of Energy estimates that this efficiency increase resulted in annual energy savings in 1986—relative to 1973 trends—worth $180 billion.

A 1990 Oak Ridge National Laboratory study reports that the use of existing, cost-effective energy efficiency improvements could produce similar savings in the future.

Title VI of S. 1220 authorizes numerous initiatives designed to help achieve this potential. Some highlights are—

UTILITIES

The Nation's utilities are in a unique position to promote energy efficiency because of their technical ability to evaluate energy efficiency opportunities, their unique ability to communicate with their customers regarding such opportunities, and their ability to assist in financing energy efficiency improvements. Regulation of utilities is primarily a State, rather than a Federal function. Unfortunately, in most States a utility's profits are linked to its energy sales. Therefore, there is an institutionalized disincentive for utilities to promote measures that reduce sales even though they result in more efficient use of energy.

S. 1220 would reverse this situation, and would encourage utilities to aggressively promote energy efficiency, by directing States to consider allowing utilities to earn at least as much profit from energy efficiency program investments as they earn from energy production investments. Such a shift in State policy would convert the current disincentive into a powerful incentive.

In addition, S. 1220 encourages the States to consider directing utilities to adopt integrated resource planning and imposes integrated resource planning requirements on certain Federal power marketing agencies and the Tennessee Valley Authority. Integrated resource planning is a decision-making process that considers all of the alternatives for meeting utility service needs—including energy efficiency alternatives—before final investment decisions are made. Given the cost-effectiveness of many energy efficiency projects, the adoption of integrated resource planning by utilities and Federal power marketing agencies will result in more energy efficiency initiatives by utilities. Preliminary estimates by the American Council for an Energy Efficiency Economy are that these initiatives will save the Nation 1.3 quadrillion Btu (quads) per year by the year 2010.

APPLIANCE STANDARDS

Appliance and equipment standards established under the Energy Policy and Conservation Act [EPCA], are one of the most cost-effective Federal energy efficiency programs. The annual cost of the program to the Department of Energy is less than $5 million annually. However, the savings that result from the elimination of the least efficiency models of appliances are substantial. For example, the savings from the residential appliances under existing law, such as furnaces, water heaters, and air-conditioners, will reach nearly 1 quad annually by 2000.

S. 1220 expands this residential appliance program by establishing maximum flow rates for showerheads that would result in additional energy savings estimated at nearly 0.4 quads annually by 2010. Perhaps more importantly, S. 1220 establishes or authorizes standards for commercial and industrial equipment for the first time. It is estimated that the inclusion of commercial air-conditioning and heating equipment, lamps, and utility distribution transformers in the appliance standards program will save the Nation over 0.5 quads annually by the year 2010.

BUILDING SECTOR

Buildings consume roughly 36 percent of the Nation's energy, 30 quads, with 60 percent used in residential buildings and 40 percent used in commercial buildings. S. 1220 includes an extensive package of proposals to spur energy efficiency improvements in buildings. The bill requires the Department of Energy to establish voluntary National energy efficiency standards for residential A commercial buildings. Additional provisions include the establishment of voluntary national home energy rating guidelines, the promotion of energy efficient mortgages to assist in the purchase of energy efficient housing, the encouragement of stronger energy efficiency standards for manufactured housing by the Secretary of Housing and Urban Development, and the development of labeling programs for important building components such as windows and lighting.

Building standards have an enormous potential for energy savings, but are slow to produce results because of the slow rate of turnover in the Nation's housing stock.

These are just some of the highlights of the energy efficiency initiatives of S. 1220 with some preliminary energy savings estimates. As more specific estimates of the bill's impact on energy savings and production are developed they will be presented in the RECORD. I ask unanimous consent that a side-by-side comparison of energy efficiency provisions of the three principal Senate energy bills: S. 1220, S. 741, and S. 570, be printed in the RECORD, and finally, a summary of S. 1220 is available from the committee, and the committee report (S. Rept. 102–72) and copies of the bill are available from the Senate Document Room.

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

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Establishes a nonexclusive list of policies to be considered in devising a strategy for stabilizing greenhouse gases. Sets guidelines for U.S. policy with respect to an international framework convention on global climate change.	Sec. 1201	Sec. 5	Not included.
Requires that DOE's biennial National Energy Plan include a "Least-Cost National Energy Strategy" designed to outline policies and assign priorities among the energy resources that the Secretary determines to be the most cost-effective.	Sec. 1202	Sec. 101	Do.
Requires the Secretary to appoint a Director of Climate Protection to serve as the Department's representative on all interagency and multilateral policy discussions regarding global climate change.	Sec. 1203	Sec. 111	Do.
Designates additional duties for the Committee on Renewable Energy Commerce and Trade (CORECT) in order to promote the U.S. manufacture and export of renewable energy technologies.	Sec. 5101	Sec. 311	Do.
Establishes a complementary interagency working group—the Committee on Energy Efficiency Commerce and Trade (COEECT)—for the promotion and export of energy efficient technologies.	Sec. 5101	Not included	Do.
Expands the comprehensive data base and technology information dissemination system under CORECT. Establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and Caribbean.	Sec. 5102	Sec. 312	Do.
Requires comprehensive technology evaluation and report on technologies, services, etc., for renewable energy exports.	Sec. 5103	Sec. 313	Do.
Establishes an advanced research and development information computer network to provide information on energy efficiency and renewable energy.	Not included	Sec. 304	Do.
Expands the joint venture program under the Renewable Energy and Energy Efficiency Technology Competitiveness Act to include biofuels energy systems, high-temperature and low-temperature geothermal energy systems, solar water heating technologies, photovoltaic and wind energy systems, biomass direct combustion or gasification technologies, fuel cell technologies, and utility-scale photovoltaic systems.	Sec. 5201	Sec. 305 and Sec. 235. Joint ventures limited to photovoltaics and fuel cells. See Sec. 235.	Do.
Directs the Secretary to conduct a program to promote and demonstrate the commercial application of fuel cell systems in Federal buildings.	Not included	Sec. 235	Do.
Directs the Secretary to conduct a joint venture for energy technology export training.	Sec. 5201(a)	Not included	Do.
Grants authority to the Secretary of Energy to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.	Sec. 5201(c)	do	Do.
Requires the Secretary to undertake a report evaluating opportunities to minimize waste outputs from production processes in United States industry.	Sec. 5202	do	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Amends EPCA to encourage the development and implementation of renewable energy and energy efficiency projects at the State and local level.	Sec. 5203	Sec. 302	Do.
Establishes a facility—the Spark Matsunaga Renewable Energy and Ocean Technology Center—for cooperative research and development in Keahole Point, Hawaii.	Sec. 5204	Not included	Do.
Authorizes funds to enable the Federal labs to better provide current information on renewable energy and energy efficiency to industry, the public, and Government.	Not included	Sec. 303	Do.
Authorizes funding of 4 pilot programs for demonstration of renewable energy and energy efficiency.	.....do	Sec. 303(b)	Do.
Establishes a program at the Department of Energy, in consultation with the National Academy of Sciences, for awarding cash prizes for technical achievement in the following technologies: solar thermal; photovoltaics; windpower; sustainable biomass; and geothermal.	Sec. 5205	Not included	Do.
Directs the Secretary of the Interior to study and implement water use efficiency measures at Federal reclamation projects for purposes of increasing hydropower production, making more efficient use of project power, and providing more water for fish and wildlife.	Sec. 5304	.....do	Do.
Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for renewable energy research and devlopment programs.	Sec. 13109	Sec. 301	Do.
Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for energy efficiency research and development programs.	Sec. 13110	Sec. 201	Do.
Requires the Secretary of Energy to issue a Federal building energy code to assure that all new Federal buildings include energy efficiency measures that are technically feasible and economically justified.	Sec. 6101	Not included	Do.
Requires all buildings receiving Federal mortgages to meet or exceed the Federal Residential Building Code.	Sec. 6102	Section 221. All *new* construction must meet updated State building codes.	Do.
Requires the Secretary to support and participate in the upgrading of the voluntary industry building energy codes, and authorizes incentive funding to States and localities which adopt energy building codes at least as stringent as the voluntary industry code.	Sec. 6101	Sec. 224	Do.
Directs States and localities to certify that they have reviewed and updated their residential and commercial building codes to be at least as stringent as the voluntary industry code with respect to energy efficiency.	Not included	Sec. 221	Do.
Directs the Secretary to issue voluntary guidelines to be used by States, local organizations and others to develop energy rating systems for residential buildings. Authorizes technical assistance to encourage the adoption of rating systems.	Sec. 6102(a)	Sec. 222	Do.
Encourages the use of energy efficient mortgages to maintain housing affordability by authorizing a requirement that homebuyers be notified of the availability of energy efficient mortgages at the time of mortgage application. Provides credits for solar energy.	Sec. 6102(c). Links uniform mortgage financing plan to Federal building codes.	Sec. 222. Homes must include efficient mortgage provisions and standards.	Do.
Requires the Secretary to make recommendations to the National Commission on Manufactured Housing and HUD regarding energy efficiency improvements to manufactured housing (mobile homes).	Sec. 6103(a)	Sec. 223	Do.
Requires the Secretary to test the performance of manufactured housing.	Sec. 6103(b)	Sec. 223	Do.
Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy-intensive industries and industrial processes.	Sec. 6104	Sec. 212	Do.
Directs the Secretary to prepare a report evaluating the potential of current energy efficiency policies to decrease overall U.S. energy use and oil consumption per unit of GNP.	Sec. 6105	Sec. 202	Do.
Requires the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits, and for the installation of insulation, in industrial facilities.	Sec. 6106	Sec. 213	Do.
Authorizes the Secretary to establish a program to establish reporting requirements and energy consumption targets for certain energy intensive industries.	Sec. 6108(c). Requires the Secretary to submit a report on the costs and benefits of such a program.	Sec. 214. Program is mandatory.	Do.
Requires the Secretary to provide financing for the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems. Requires the FTC to develop such a program if it is not done voluntarily within two years.	Sec. 6107	Sec. 225	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Directs the Administrator of the EIA to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.	Sec. 6108	Sec. 215	Do.
Requires the Secretary to provide financial and technical assistance to support the voluntary development of a labeling program for lamps and luminaires. Requires the FTC to develop such a program if it is not developed voluntarily within 2 years.	Sec. 6109	Not included	Do.
Adds lamps, commercial air conditioning and heating equipment, motors and utility distribution transformers to the appliance energy efficiency program, and requires the Secretary to conduct a study of the potential benefits of upgrading utility distribution transformers at the time of their routine maintenance.	Sec. 6110. Does not include electric motors. Sets an industry standard for package heating and cooling systems.	Sec. 226	Not included. Precludes standards for lighting systems.
Requires the Secretary to support the development of a voluntary labeling system for commercial office equipment.	Sec. 6110	do	Not included.
Establishes energy efficiency standards for showerheads	Sec. 6111	do	Do.
Requires Federal agencies to install energy efficiency improvements with pay-back periods of 10 years or less and establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities. Encourages shared savings contracts.	Sec. 6201(a,d)	Sec. 231. Prohibits funding for agency construction in States where energy efficiency requirements have not been met.	Do.
Requires that all government leased space constructed after January 1994 meet the Federal building code under EPCA.	Sec. 6201(b)	Not included	Do.
Directs agencies to participate in utility energy efficiency incentive programs.	Sec. 6201(f)	Sec. 231	Do.
Directs GSA to identify the energy cost-effectiveness of items listed in the GSA Federal Product Schedule.	Sec. 6201(d)	do	Do.
Prohibits Federal acquisition of cars with fuel economy less than CAFE for the previous model year. Exceptions for armed forces, law enforcement, and emergency vehicles.	Sec. 6201(f). Only requires consideration of fuel economy.	Sec. 232	Do.
Authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy.	Sec. 6201(f)	Sec. 231. No limit on awards.	Do.
Requires the Secretary to submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of energy efficiency technologies that have received Federal assistance for research and development and which the Secretary has determined are ready for commercialization.	Sec. 6202	Sec. 234	Do.
Directs the Secretary to report on the potential of using Federal purchasing power to encourage the development and commercialization of new energy efficient products.	Sec. 6203	Sec. 236	Do.
Requires State commissions to consider decoupling regulation of utility profits from power sales in order to remove the disincentives for utilities to pursue demand side management and energy efficiency resources; requires State commissions to consider requiring utilities to engage in integrated resource planning (IRP).	Sec. 6301. Includes cost of environmental *compliance* in utility's least cost plan.	Sec. 241. Includes cost of environmental *degradation* in utility's least-cost plan.	Do.
Considers measures to increase the efficiency of energy use as "qualifying facilities" and thus eligible for programs under PURPA.	Not included	Sec. 241(c)	Do.
Establishes grant program for encouraging the consideration by State utility commissions of demand-side management measures in order to meet future demand for electricity.	Sec. 6302. Grants limited to $500,000 per State.	Not included	Do.
Requires Southwestern Power Administration and the Southeastern Power Administration to consider requiring nonregulated utility customers to implement IRP as a condition of future power contracts.	Sec. 6303	do	Do.
Directs Power Marketing Administrations and customer utilities to acquire all feasible and cost-effective power from energy efficiency.	Not included	Sec. 242. Adds triennial program review and includes environmental costs.	Do.
Requires the Tennessee Valley Authority to employ Integrated Resource Planning in exercising its functions.	Sec. 6304	Sec. 242(f)	Do.
Provides for financial assistance to Insular area governments, for the purpose of encouraging the adoption of energy efficiency and renewable energy measures.	Sec. 6501	Not included	Do.
Authorizes the Secretary to provide up to $1 million per State to capitalize a revolving fund for energy efficiency projects in State and local government buildings in those States which have demonstrated a commitment to improve building energy codes.	Sec. 6502	do	Do.
Authorizes supplemental grants to Weatherization Program grant recipients to cover the costs of arranging private sector contributions to the program, and to cover the costs of training and educational activities between program grant recipients.	Sec. 6503	do	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Authorizes State Energy Conservation Programs to use Federal funds to assist in training building designers and contractors in energy systems, energy efficiency, and renewable energy technologies.	Sec. 6504	Sec. 227	Do.
Authorizes supplemental funding under the existing State Energy Conservation Programs to increase public understanding of energy issues and to provide teacher training in energy education.	Sec. 6505	Not included	Do.
Sets guidelines for the Secretary to provide financial assistance to tribal governments to plan and implement energy efficiency and renewable energy projects.	Sec. 6506	do	Do.
Requires State Energy Conservation Plans to provide for vehicles to turn left from a one-way street onto a one-way street at a red light as a condition for receipt of Federal SECP funding.	Sec. 6507	do	Do.

Mr. JOHNSTON. Mr. President, my three distinguished friends and I agree on one set of facts I believe, that this country is in a heck of a fix. These charts which I have very graphically illustrate what our fix is.

The first red line here is U.S. petroleum consumption. Mr. President, from 1980 to 1990, we have gone up and up and the projection by the Department of Energy is for a very rapid ascent on energy consumption.

On energy production, Mr. President, it is the same kind of slant of the line, only petroleum production is going down, from a high of 10 million barrels a day in about 1985, already repidly going down. And the projections are that it is going to be even more rapidly descending. What this line tells us is that no matter what we do this country is going to be heavily dependent upon imported crude oil with or without drilling in ANWR, with or without an elephant finding of oil in Alaska. We are going to be heavily dependent.

The results of this, in terms of trade deficits are, as you would expect, frightening. Here is the trade deficit; the yellow line and the black line represents the oil import bill. The oil import bill now makes up over a third of the total trade deficit, will soon be half the trade deficit, and will grow from there.

Finally, Mr. President, what is the outlook? The outlook in term of crude oil is even worse. The outlook of things to come is shown by the rotary rigs in operation. This is what we look for when we look for what the trends will be. These are the rotary rigs, from a high of 4,000 rigs shortly after 1980 when the price was up. We have gone down now to in the neighborhood of 500 rotary rigs.

We are in a heck of a fix, Mr. President.

Mr. President, I hope I do not sound patronizing or arrogant when I point out that my three colleagues who have just spoken are all freshmen. I came here as a freshman in 1972, arrived on the Energy Committee under the late, great "Scoop" Jackson. And in the intervening 19 years I have seen just about everything tried in terms of energy, participated in much of it, and reported much of that legislation.

I was a coauthor of the first solar bill that I recall up here under the late, great Hubert Humphrey. I was here when Jimmy Carter said we are going to have 20 percent solar by the year 2000. We have a little more than the equivalent of one nuclear power plant, about 1,000 megawatts, in solar energy that has been produced, solar energy properly defined.

That does not mean we should not continue with solar. We should. And in my Appropriations Subcommittee we provide money for solar. I am for giving more money to solar, but keep it in perspective.

We tried gasohol. In my State, we subsidized gasohol at $1.60 a gallon. We had a $26 million Federal loan guarantee for one gasohol plant that was going to help our sugarcane industry as well. They could not even get it off the ground. But gasohol has a niche too.

We have tried shale oil. I remember Dr. Hammer came up here and told us shale oil was going to be the solution to this whole thing. And you might have read just the other day where Unocal shut down after losing several hundred million in their shale operation even though it was being subsidized by the Government at over $40 a barrel.

I reported the synfuels bill to the Senate floor. We passed it into law, and later the Congress saw fit not to pursue the synfuels bill. Part of that decision was good; part of it was not so good.

We have tried regulation under Nixon and Ford. We have tried deregulation under President Reagan. We have tried the free market under President Reagan. We have tried the Project Independence under President Nixon. We have tried the National Energy Act, which I reported under President Carter in five ambitious parts. We tried the Energy Security Act under President Carter, the free market under President Reagan. We have tried secondary and tertiary recovery under the Energy Policy and Conservation Act. We have tried tax benefits for stripper wells. I helped cosponsor that.

We have heard the nuclear industry in years past say nuclear energy is going to be too cheap to measure. We have tried fuel efficiency, which has worked up to a point. We have tried CAFE standards. We have done conservation. We reported more conservation bills out of our committee than any other committee, and there are literally hundreds of pages of laws respecting energy conservation. We have tried electric cars, alternate fuels, clean coal, and the list goes on and on, Mr. President. And I have participated in it.

But those charts show the inexorable trend. We are more and more dependent. We just sent 500,000 American men and women to the Middle East to risk their lives, and some did not return, because, to a large extent, of energy.

Mr. President, things need to change in this country. I have heard all this pie in the sky about this one single solution. I have heard solar energy. I have heard CAFE. I have heard it all. I have participated in almost all of it, Mr. President, over 19 years. And there is one thing that is indelibly clear—that there is no one solution.

All I heard out of my distinguished freshmen friends today is CAFE, and I agree CAFE ought to be part of that solution. But we have a bill in 15 different titles.

That is what the country needs. The Department of Energy says our bill, S. 1220 will save 6 billion barrels a day, and we do not do it all by ANWR, by the Arctic National Wildlife Refuge drilling. But, Mr. President, Arctic National Wildlife Refuge is an important part of it. There might be as much as 200 billion dollars' worth of oil there. There might be that much. There may be nothing there. We do not know. But it may be that much.

By gosh, if we have it, we ought to go see. We are told that is a pristine area. It is not. There is a village there with people living, and automobiles and laundries, food being cooked, and all of that, a village, Kaktovik. There is a radar station there. There is hunting allowed—blood sports if you will—hunting allowed out there in the Arctic National Wildlife Refuge. It is not unique.

Do you know how many acres there are in the area we want to drill? There

are 1.5 million acres, a lot of acres. Do you know how many acres are in the entire coastal plain of Alaska? There are 53 million with 8 of 19 million acres in the Arctic National Wildlife Refuge itself.

Mr. President, the tundra is one of the most prolific life forms in the world.

Get a map of the Arctic and you will see that the ice cap is surrounded by tundra. In Canada, you can go into Canada 300 miles from the U.S. border or more than that—my counsel has been there 300 miles, and he says it looks just the same, same kind of Eskimo, same habits, same tundra. Fifty-three million acres in America, in Alaska, and we want to drill on 1.5 million, and we are told it is unique, it is pristine, more valuable than anything else.

Of course, it has value, Mr. President. But I submit to you, compared to the Gulf of Mexico, where we produce 2 billion pounds of commercial seafood, it produces no commercial seafood. It produces vanishingly small amounts of sports fisheries. You might have three or four people on a given day fishing there. Tens of thousands are out in the Gulf of Mexico.

But you say drill in the gulf, in the Rockefeller Wildlife Refuge, in Mobile Bay, drill anywhere down south, but please do not drill on this piece of frozen tundra called the Arctic National Wildlife Refuge. Mr. President, that will not wash, not when we had 500,000 American men and women over in the gulf because of energy.

Mr. President, we need to do it all. We need to do it all: ANWR, nuclear, CAFE, energy efficiency, alternate fuels; everything we can get our hands on, we need to do. That is what our bill, at 6 million barrels a day, does.

The ACTING PRESIDENT pro tempore. The Senator's time is up.

Mr. JOHNSTON. I yield to my distinguished friend from Wyoming the remainder of the 10 minutes.

Mr. President, I think Senator CONRAD wanted some time, as well, but I will give it to the distinguished Senator from Wyoming, and perhaps we can find a way to let people speak.

Mr. WALLOP. Mr. President, is there 10 minutes remaining?

The ACTING PRESIDENT pro tempore. About 9 minutes.

NATIONAL ENERGY SECURITY

Mr. WALLOP. Mr. President, I doubt if there is one Member of this body that has not criticized the failure of Congress to formulate a national energy policy, or lamented the economic and trade consequences of our country's critical dependence on imported oil from the politically unstable Persian Gulf. Over the years, at one time or another, each of us has characterized the formulation of a long-term, comprehensive, and consensus-based national energy strategy as one of the most important tasks facing the Congress.

The debate over national energy policy has racked this body for more than 40 years—long before many of us entered public service. Yet we are still at it.

The Interior and Insular Affairs Committee's 1951 report, Senate Document 82-8, supported, and I quote, "the formulation of policies designed to increase the availability of reliable energy resources by drawing more heavily on those which are inexhaustible, such as water, wind, and the Sun;" what are now called renewable resources, and continuing, "by improving the methods of producing exhaustible resources; and by encouraging the more efficient consumption of energy," all the objectives that are being stated here today, 40 years later. The study then went on to cite the universal objective that all of this must be done to the, and I quote, "end that the American people may have the assurance that their energy resources will not be dealt with so improvidently as to limit the ever higher and higher level of living possible with our national genius and our wealth of resources," end quote. But that did not easily come about.

The committee was to return to the need for a national energy policy, again in 1961 and 1962, and again from 1971 through 1976, when the Senate commissioned further investigations into our Nation's energy posture and the need for a national energy policy.

In 1962, the Senate's National Fuels and Energy Study Group observed when submitting its report to the then committee chairman, Senator Clinton P. Anderson, and I quote, "we found ourselves continuously dismayed to learn how little positive information exists, how much is impression and folklore, in subject area after subject area, in industry after industry. Belief in this folklore is deep and it is held with passionate, thought honest, tenacity. Too often, to our minds, have we been forced to write: 'No one knows * * *.'" But once again, we continued to muddle forward through the 1960's into the 1970's without a comprehensive energy policy. Only with the recent Persian Gulf crisis did the need for a national energy policy again receive the attention of the Congress.

Mr. President, the National Energy Security Act of 1991 responds to this need. The measure sets forth such a strategy; one that will not only further our national security interests, but will also create American jobs, help our balance of payments, and lessen our dependence on foreign energy markets and international cartels.

Over the last few months the committee has worked closely with the Department of Energy and the White House to formulate comprehensive legislation that will set our Nation on the right course toward the more efficient use of energy and greater energy self-sufficiency. The American people deserve nothing less from their elected leaders.

As a consequence of these energy efficiency and production initiatives, oil imports are expected to be reduced in the year 2000 by an estimated 2.9 million barrels a day and in the year 2010 by over 6 million barrels a day. These savings are achieved by major energy conservation and energy supply initiatives in six complementary areas; and I emphasize, complementary areas.

Our country is fortunate to have a broad spectrum of energy resource choices—energy conservation, coal, uranium, oil, natural gas, and renewables. A successful national energy strategy should provide sufficient flexibility for all of these alternatives to compete in the marketplace. It is a balanced bill that deserves enactment this year.

At this precise moment which follows a war in the Persian Gulf, we should be in a period of unusually clear thinking. Unfortunately, however, some of our colleagues are operating in a fog.

The American people, and indeed the world, are ready for such a reexamination of our joint dependence on the Persian Gulf for those energy supplies that are critical to all of our economic futures.

Mr. President, S. 1220, the National Energy Security Act of 1991, is a balanced bill that provides a long-term, comprehensive, and consensus-based energy policy for the United States. By reporting the S. 1220, the National Energy Security Act, the committee demonstrated that it is possible for representatives of this body to address complicated issues such as national energy policies in a comprehensive and balanced manner. What now remains is for the full Senate to bring up the bill and deal with the issues before us.

I ask unanimous consent that some related materials be printed in the RECORD at this point.

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

THE DEPUTY SECRETARY OF ENERGY,
Washington, DC, June 25, 1991.

Mr. HOWARD RIS,
Executive Director, Union of Concerned Scientists, Cambridge, MA.

DEAR MR. RIS: The "legislative alert" issued by the Union of Concerned Scientists (UCS) on energy bills being considered in the Senate contains a number of misleading comparisons, glaring omissions, and incorrect data which we feel should be brought to your attention. We do this in the hope that notwithstanding UCS positions on the legislation in question, the energy debate might benefit from greater accuracy.

First, the National Security Act of 1991, reported by the Senate Energy Committee as S. 1220, contains 16 titles that address virtually every aspect of energy production, transformation, transportation, and use. Yet your summary only mentions three items

covered by the legislation, and mentions none of the provisions that deal with electricity and transportation efficiency, renewable energy, natural gas, research and development of innovative technology including electric vehicles, hydrogen, fuel cells and biomass energy.

Secondly, relative merits aside, the Motor Vehicle Fuel Efficiency Act of 1991, or S. 279, is not, and was never intended by its author and sponsors as, a substitute for S. 1220 because S. 279 addresses only one energy issue. It should be noted that S. 279 was proposed as an amendment to Title III of the National Security Act and was rejected decisively by the Committee on a bipartisan basis.

Furthermore, neither the author of S. 279, nor any of its sponsors has, to our knowledge, ever claimed that its implementation would result in oil savings of 2.5 million barrels/day of oil by 2005. It is technically impossible to obtain such savings either in 2005 or in 2010.

Thirdly, the Energy Security Act does not "reassess," as your publication claims, the President's determination to defer leasing in certain environmentally sensitive areas off the Atlantic and Pacific Coasts pending further study. On ANWR, your statements are also misleading. The fact that "only" five percent of the world's oil reserves are in the U.S., compared to 50% in the Persian Gulf is, contrary to your assertion, a very good reason for developing our domestic resources if we want to reduce our reliance on imports from insecure sources.

A further argument for the careful development of a small portion of ANWR is that without it, the entire production of Alaska oil is in jeopardy. That is so because current North Slope production of 1.9 million B/D is expected to slide to less than 500,000 B/D by 2005, thereby raising the real probability that the Trans Alaska Pipeline could no longer be operated economically. Such a prospect would have the effect of shutting in all reminaing Alaska production, and raising U.S. levels of import dependence to between 65% and 70% of consumption.

Fuel efficiency is not an alternative to ANWR. Rather, fuel, efficiency, alternative transportation fuels and technology, ANWR, and increased lower-48 oil production will all be necessary if we are to reduce our reliance on insecure supplies of oil.

Fourth, your assessment of the impact of PUHCA reform, as proposed in the Energy Security Act and by the National Energy Strategy, is contrary to every analysis known to us. PUHCA reform does not represent an alternative to efficiency investments, as you claim, but increased competition in the power generation sector. Increased competition is one of the best means of assuring that the best technology reaches the market at lowest cost to consumers, and that electricity is produced and distributed efficiently.

There is no evidence to suggest that PUHCA reform would disadvantage renewable energy technologies. On the contrary, PUHCA reform would encourage the use of innovative technologies.

Finally, neither the NES nor the Energy Security bill would in any way, as you state, "undermine nuclear reactor safety and public confidence in the nuclear industry." Nuclear safety has been a hallmark of policies pursued by Secretary Watkins, at home and abroad. The licensing reforms being sought are intended to render the process more transparent and rational for all concerned, not to shut the public out.

Furthermore it is incorrect to state, as does your legislative alert, that "neither the NRC nor the nuclear industry can point to a single case where operation of a nuclear reactor was inappropriately delayed by public hearings." Shoreham and Seabrook are the two most recent cases in point.

In summary, we believe that an objective reading of the Senate energy bill and of the Natinal Energy Strategy, and a rigorous examination of the data and analysis that support these comprehensive policy initiatives would lead to entirely different conclusions than those represented in your "legislative alert." We believe that your constituents deserve a more objective presentation of the issues than you have provided.

With best personal regards, I remain,

Sincerely yours,

W. HENSON MOORE.

UNION OF CONCERNED SCIENTISTS,
Washington, DC.

WHAT THE JOHNSTON-WALLOP BILL DOES

This bill has something for everyone (except the American public). For the coal industry, the bill provides incentives for 'clean coal' technologies and coal exports, and open-ended funding for a new government 'coal refining program' (shades of the late, unlamented Synthetic Fuels Corporation boondoggle!). The oil industry gets access to the Arctic National Wildlife Refuge and a 'reassessment' of those environmentally sensitive offshore areas currently protected by moratoria on oil drilling. The nuclear industry wins provisions virtually shutting the public out of the nuclear power plant licensing process and writing off nearly $10 billion in unrecovered government investments in uranium enrichment facilities.

While it includes some measures on energy efficiency and renewables, these are limited. There is no requirement for increased fuel economy standards for automobiles and light trucks (which use much of our oil), no efficiency standards for electric motors (which use half of our electricity), no major shift in federal research and development spending away from fossil fuels and nuclear power to energy efficiency and renewables (which now get only about 13% of the nearly $3 billion energy R&D budget).

Three specific provisions of S. 341 are of greatest concern:

Arctic Oil Drilling: S. 341 would allow drilling in the Arctic National Wildlife Refuge, a major arctic coastal ecosystem of global significance. Other provisions of the bill would lay the groundwork for increased drilling off the Atlantic and Pacific coasts. The bill ignores the fact that only 5% of the world's oil reserves are in the U.S., while almost 50% are in the Persian Gulf. Drilling in even the most environmentally sensitive areas will not provide a significant amount of oil to displace imports and pales in significance when compared to the amount of oil that can be saved by increasing vehicle fuel economy standards, promoting increased car and van pooling, and other conservation measures not included in the bill.

PUHCA 'Reform': S 341 would amend the Public Utility Holding Company Act in ways that will undermine recent state utility commission initiatives to advance conservation and efficiency as alternatives to new power plants. It will also reduce the ability of renewable resources to compete. The bill would allow utilities to create affiliates to build power plants and sell power back to themselves or to other utilities, largely circumventing state regulatory review. This will encourage utilities to build new coal, gas and nuclear plants rather than making more cost-effective, environmentally-sound investments in energy efficiency measures. Because the bill does nothing to address the utility monopolies' stranglehold on the electricity transmission grid, it could worsen the competitive position of independent power producers and hurt prospects for increased electricity production from renewable sources like solar and wind.

Nuclear Licensing: S. 341 would attempt to speed up the current licensing process by authorizing a one-step licensing procedure, and eliminating the right of public intervenors to raise significant new safety issues at the operating license stage. This measure is designed to encourage investment in the nuclear industry by assuring operation once a plant has been built, but it goes too far. By preventing the public from raising valid safety issues, S. 341 would undermine both nuclear reactor safety and public confidence in the nuclear industry. All this despite the fact that neither the Nuclear Regulatory Commission nor the nuclear industry can point to a single case where operation of a nuclear reactor was inappropriately delayed by public hearings.

Mr. WALLOP. Mr. President, it is as though we are walking down a path with Alice in Wonderland. Those who have criticized this bill have clearly not read it. There is not a Member of Congress that has not pontificated about the lack of a comprehensive national energy policy, and these Senators come in here with absolutely no alternative, except CAFE—Nothing comprehensive about it. CAFE by itself will not do it. Oil production by itself will not do it. Nuclear production by itself, as the Senator from Louisiana has said, will not do it. Conservation by itself will not do it.

But, Mr. President, it would help if the critics of this bill had alternatives that they were willing to offer. It would help if the critics of this bill would recognize that, since time immemorial, this Congress has been trying to come up with an energy strategy.

We believe in an America that has an economic future in the new age and not in the stone age. We believe in an America that is responsible.

There are 15 titles in here, almost equally divided between production and conservation There is balance, bipartisanship, and there is intelligence in this. And I say again, Mr. President, the critics come down here without a solitary thing to offer in its stead. They criticize. They, like all the rest of us, have continued to pontificate about the lack of a comprehensive national energy strategy. One single bullet will not do that.

Mr. President, in the interest of trying to save time for other Senators, I yield the subsequent 3 minutes to Senator NICKLES.

THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. NICKLES. Mr. President, I wish to rise and congratulate Senators WALLOP and JOHNSTON for their statements. I echo what they have said.

Mr. President, I urge the Senate to pass S. 1220, the National Energy Security Act of 1991. This measure is a comprehensive package of energy initia-

tives addressing a broad variety of initiatives in energy conservation, in research and development, and in increasing the efficient supply of energy. The bill also allows a small portion of the Arctic National Wildlife Refuge to be leased for oil production to help sustain Alaska's vital oil production, which is now in significant decline as the 15-year-old Prudhoe Bay field enters its final stages of productivity. While I disagree with a few of the provision in this package, it nevertheless represents a comprehensive and effective approach to reduce our Nation's dependence on foreign oil.

The energy bill contains strong medicine for curbing our appetite for foreign oil, yet it will not be unhealthy for the country and our struggling economy. Importantly, the National Energy Act avoids extreme measures such as mandating consumers have available for purchase only 40-mile-per-gallon cars. Like a miracle diet pill or magic elixir, a high CAFE standard, such as proposed in S. 279, the Motor Vehicle Fuel Efficiency Act of 1991, will be costly, ineffective, and injurious to the economic health of the country.

Adding S. 279, frequently referred to as the Bryan CAFE bill, will waste thousands of lives on U.S. highways, waste millions of consumer dollars on unnecessary additional costs for vehicles, eliminate from sale safe and affordable vehicles people need, and seriously damage the largest industry in the United States, the automobile manufacturing industry. All this tragic waste and destruction is certainly not intended by supporters of the Bryan CAFE bill, but it will be the consequence of the unrealistic and arbitrary mileage goals set forth in that bill.

We all share the common goal of reducing our country's dependence on foreign oil. Foreign oil imports are already almost half of our annual petroleum consumption, and over half of our trade deficit last year—costing the U.S. economy $54.7 billion. The preliminary estimates of the Department of Energy are that the Energy Committee's bill, by increasing conservation and production, will decrease oil imports in 2000 by at least 2.9 million barrels a day, and over 6 million barrels a day by 2010. By contrast, the DOE estimates the Bryan CAFE bill will reduce imports by 500,000 barrels a day by 2000, and 1 million barrels a day by 2010.

The Senate Energy Committee bill contains a number of provisions to increase the use of alternative fuels in cars and trucks. Several alternative fuels, particularly natural gas and liquefied petroleum gases, are cleaner burning than gasoline and are abundant domestic fuels that can directly replace imported oil without having to resort to mandating consumers buy diminutive 4-passenger cars.

Moreover, the Senate Energy bill contains a CAFE increase provision—one that requires the Federal agency with the technical expertise to undertake a public rulemaking to set new CAFE standards for 1996 and 2001 at the maximum feasible levels, using all known fuel-saving technologies that can reasonably be expected to be applied and maintaining model year 1990 performance levels, size mix, and interior volume.

The proponents of higher CAFE standards insist that if Congress waives a magic regulatory wand, the automakers will invent technology that will give us roomy cars that get 35 or 40 miles per gallon. After all, proponents argue, "We can make smart bombs, why can we not make fuel efficient cars?" Well, we can, and we do. Six different manufacturers make cars today that have a combined EPA rating of close to or better than 40 mpg. All seat two adults, have two rear seats and weigh about 2,000 pounds compared to the industry average of about 3,200 pounds. However, in 1989, less than 2.5 percent of the car-buying public purchased gasoline cars averaging 40 mpg or better, despite heavy incentives being offered by manufacturers.

The most significant problem with bills that order manufacturers to dramatically increase new car fuel efficiency is that most of the fuel-efficiency technology has already been incorporated in today's cars. During the past 15 years, domestic manufacturers have doubled the mileage of their fleets. This increase in fuel efficiency has been accomplished without a significant reduction in the average car's interior space. Manufacturers have aggressively reduced weight—about a thousand pounds off of the average car—primarily by reducing car length and going to front wheel drive. Manufacturers are building cars with more efficient engines and tires, front-wheel drive, computer-controlled fuel injection and aerodynamic styling.

However, most of the cost-effective measures have already been used to increase fuel efficiency. For example, almost 100 percent of all Chrysler and Honda cars sold today are front wheel drive. So, where is the dramatic fuel economy increase envisioned in the Bryan bill going to come from? It will come predominately from further downsizing, which will give the large cars of the next decade the size, comfort, and safety of today's smallest cars.

Any large increase in fuel economy—even to levels far below those in the Bryan CAFE bill—will either require smaller cars or cars made with exotic metals, such as magnesium, and advanced technology, both of which will be expensive. I think cars are already too expensive. The average car sold in 1990 was $16,017, of which over $2,500 is already the direct result of Federal safety and pollution regulations imposed since 1968, not counting the hundreds of dollars that the new clean air amendments are expected to add during the 1990's.

The proponents of higher Federal CAFE standards argue that we Americans must "change the way we do business" and learn to be happy with small cars with less carrying capability and less safety on the highways. I want to see higher gas mileage, but I firmly believe that Congress should not mandate the size of car Americans must buy. It is particularly important that Congress not be tempted to force Americans into small cars given the National Highway Traffic Safety Administration finding that the occupant death rate in the smallest cars is double the rate for the largest cars. Passage of a bill mandating a large increase in CAFE standards will have the effect of sentencing to death thousands of men, women, and children every year. There are, simply put, a number of competing interests that need to be considered along with the goal of decreased gasoline usage.

And lets look at the CAFE issue in context: The current recession has deeply hurt the domestic automobile industry. The domestic automakers—which have lost $4.6 billion in the past two quarters—have less money for subsidizing and advertising lower mpg cars, and less money available for R&D. The lack of resources is becoming acute in the auto industry because of the very significant demands being placed on fuel and engine system redesigns by the recently enacted Clean Air Act amendments, and by increased safety regulations being imposed by the National Highway Traffic Safety Administration.

The realities of the marketplace and the lessons we have learned should give us enough hindsight to avoid making the mistake of Congress setting arbitrary CAFE standards. The Senate Energy Committee bill's directed rulemaking approach injects a large dose of common sense into this CAFE debate by establishing practical criteria for a rulemaking by the appropriate agency, rather than having Members of Congress simply pull mileage numbers out of the air and put them in binding legislation.

The most economical way for the United States to reduce its dependency on foreign oil is by increasing its own oil production. Every barrel of domestic oil produced immediately replaces a barrel of oil that would otherwise be imported. Domestic oil production will help bridge the gap between today's transportation fueling infra-structure based almost exclusively on gasoline and diesel to tomorrow's infrastructure which includes a variety of alternative motor fuels, including natural gas and electricity.

The site in the United States with the largest potential for new oil pro-

duction is in a small portion of the Alaska National Wildlife Refuge. The Energy Committee bill would allow the oil leasing on selected tracts within the Coastal Plain of the 19-million acre refuge for environmentally sound oil production.

Onshore Arctic oil production has an excellent environmental record. The mere threat of serious curtailment of future oil production from Alaska's North Slope, and decades of intense governmental and private sector scrutiny has spurred the major Arctic oil producers to unprecedented levels of environmental sensitivity. In the 25 years since Prudhoe Bay, gravel pads for drilling and producing oil has been reduced in size by 70 percent, due largely to advances in directional drilling. In addition, the number of gravel roads and the size of oil and gas separation facilities have been reduced by 50 percent. Most importantly, reliance on Prudhoe and Deadhorse facilities will enable the support services areas in ANWR to be less than 10 percent of those earlier service areas.

There have also been tremendous advances in production waste management practices on the North Slope. Now, brines produced with the oil are injected into permitted disposal wells and drilling mud reserve pits are lined and continuously monitored. One company has installed new technology that allows elimination of the reserve pits on drilling pads by simultaneously reinjecting drilling muds brought up by the drilling operations.

The original arguments against opening the Coastal Plain out of concern for welfare of the caribou in ANWR has been exposed as a red herring. Detailed scientific research over the past decade years shows that the caribou will not be adversely affected by oil development in the Coastal Plain lease tracts. Moreover, the experience with the central Arctic herd near Prudhoe Bay oil fields has been overwhelmingly positive: That herd has grown over 500 percent in the last 13 years.

We need to increase domestic oil production. We must face the fact that our Nation will be dependent on oil for decades to come. Oil is and will be for decades to come the world's cheapest and most convenient energy resource. We will be heavily dependent on petroleum for transportation for many decades whether or not Congress were to mandate only tiny new cars can be sold. We should use the billions of dollars in economic activity and taxes from producing oil in ANWR for the betterment of our society and to reduce our trade deficit. Using ANWR bonus and royalty revenues to fund energy conservation or research incentives is a far better energy policy than mandating CAFE standards that are far beyond what is feasible or safe.

The Energy Committee worked hard, and we did come up with a bipartisan and a good energy package. I heard Senator WELLSTONE say this was nothing but "gifts to the energy industry." I will tell him that is exactly wrong.

Many people in my State feel like we did not do hardly anything for the independent producer, and we did not do enough to stimulate domestic production, particularly in the lower 48 States.

Senator BRYAN mentioned that we need to do much more in mandatory CAFE standards. He did not say "mandatory," but that is what is in his bill, to make all cars average 40 miles per gallon. Frankly, there are six car manufacturers right now making cars that are available to be sold in the United States that get 40 miles per gallon, but the vast majority of people do not want to buy them. So we are going to mandate that the automobile industry sell them, and mandate, I guess, that people buy them. Frankly, they probably will not, so we are going to cost a lot of jobs.

Not only that, but I heard Senator LIEBERMAN say that we cannot legislate geology. Frankly, we cannot legislate physics either. If we are going to mandate that these cars average 40 miles per gallon, they will be about the same size as the cars we are making today that get 40 miles per gallon. They are more fuel efficient, but also much more dangerous. Senator BRYAN's CAFE bill will cost lives; it will cost jobs; and it will deny consumer choice. I think that is a serious mistake.

We need a balanced energy package. Actually, we have that in the bill before us. People are saying it does not go far enough, so they are against the whole package. And I think they are being very shortsighted indeed.

Senator JOHNSTON mentioned that we are spending about one-third of our trade imbalance on oil. Actually, it is over half. Last year we spent $54.7 billion on oil imports. We need to reduce that figure. This bill we have before us today is a giant step in that direction.

I yield the floor.

THE NEED TO OPEN ANWR

Mr. MURKOWSKI. Mr. President, we are hearing today arguments that were presented in the mid-1970's, at a time when this body was debating the merits of the trans-Alaska pipeline system [TAPS]. Since TAPS was built in the mid-1970's, it has transported about 24 percent of the total crude oil produced in the United States. The doom seekers said that the caribou would not cross the pipeline, that it will be a disaster environmentally. Prudhoe Bay, today, is better than any other oil field in the United States, and we are proud of it. We can do even a better job is we open the coastal plain of ANWR to oil and gas exploration and development.

I get frustrated when I hear my colleagues from Connecticut and Minnesota make generalities with regard to the job we are doing in Alaska. We are doing a good job. The generalization that there is only a 200-day supply of oil in the 1002 area is fraught with unrealistic interpretation. If there is only a 200-day supply of oil, it would be the third-largest oil field ever found in the United States next to Prudhoe Bay and east Texas. If there is a 600-day supply, Mr. President, that would be the largest field ever found in the United States.

The caribou issue is flawed, Mr. President. We started with about 3,000 caribou before we built Prudhoe Bay. Today, there are over 18,000 caribou in the central Arctic herd. In fact, there are more caribou than people in Alaska. We take care of the caribou in Alaska.

Many of the Senators against environmentally sound oil and gas exploration and development are spouting environmental liberalism of the worst kind. Their generalizations are wrong. Many of these people have never been to my State of Alaska.

Mr. President, the Arctic National Wildlife Refuge is made up of an area that already contains 8 million acres of wilderness in perpetuity. It will never be changed unless by Congress—9 million acres are protected by the refuge. There are over 19 million acres altogether in the ANWR area. We are only proposing to open 1½ million acres of this area.

As the Senator from Louisiana said the footprint will be 12,500 acres if we find oil. That is about the size of the Dulles International Airport. That is what my colleagues on the other side do not mention. They do not mention that we can be responsible, we can develop, for the energy security of this country.

Mr. President, Prudhoe Bay is declining at 10 percent per year. Where are we going to get the additional oil? Common sense tell us that we will have to increase imports from the Middle East.

There are many things I could say, and I wish my colleagues would avail themselves of a trip up there and see for themselves. We have done a good job. We can do a better job if we are lucky enough to find oil. If we do not find oil—the whole thing is academic—the development scenario will be removed from the area, and it will return to its natural state which is basically snow and ice for four-fifths of the year.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to print in the RECORD an article from the Wall Street Journal in support of opening ANWR along with a further statement.

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

[From the Wall Street Journal, May 30, 1991]

ENERGY REALISM

Over the past 10 years there can hardly have been a more overworked phrase in pub-

lic life than—"What this country needs is a workable energy policy." Well, if the purpose of such a policy is to produce more energy for the U.S., then we've finally got one. It remains to be seen now whether Congress will manage to kill it.

Last week, the Senate Energy Committee approved the Bush blueprint for a National Energy Strategy by a remarkable 17-to-3 vote with only minor changes. The Bush program largely relies on market forces and American ingenuity to provide the energy a growing economy needs. It makes a few symbolic bows to industrial-policy programs such as ethanol boondoggles and the like, but the strategy like the Members of the Senate's Energy Committee, appears to have accepted history's lesson that markets have built-in incentives for efficiency and conservation.

The rest of the Senate and the House, however, will be a tougher sell. Some parts of the Bush bill, such as deregulating natural-gas pipelines and researching high-efficiency engines, aren't controversial. But in three key areas—nuclear power, auto mileage standards and oil prospecting—expect a knockdown, drag-out fight.

Streamlining the licensing of new nuclear plants. Not a single nuclear plant has been built for more than a decade; the hysteria whipped up over the Three Mile Island accident in 1979 saw to that. Today a new and much safer generation of nuclear reactors is now ready, but no nuclear plants, no matter how safe, can be built under current licensing rules. A process of endless public hearings exists simply to stop construction. The Seabrook, N.H., plant was delayed for three years, at a cost to the utility and rate-payers of over $1 billion. President Bush wants to allow a "one-stop" licensing system that combines the current sets of hearings into one, while still allowing full public comment.

No artificial increase in CAFE fuel-economy standards. In the 1970s, Congress imposed auto fleet-mileage standards, called CAFE, on U.S. car companies in response to the "energy crisis." Since then, CAFE has saved a little energy at enormous cost, surrendered much of the domestic luxury-car market to foreigners and forced Americans to drive smaller, more vulnerable safe cars. But austerity-worshipers, with Nevada Senator Richard Bryan as their vehicle, want to order up a new average mileage standard of 40 miles per gallon from the current 27.5. And they aren't much inclined to wait for a National Academy of Sciences study on what standards are cost-effective or even technologically feasible.

The Department of Transportation estimates that the smaller cars mandated by the Bryan bill would increase annual highway fatalities by between 600 and 1,140. Harvard public-health professor John Graham says the Bryan bill would more than wipe out the safety benefits gained from installing air bags.

Allowing oil exploration and drilling in a portion of Alaska's coast. A 20-by-100 mile stretch of Alaska's harsh northern coast may contain the last major oil deposit in North America. The Interior Department says there's a 46% chance of finding recoverable amounts of oil and a decent chance the find could rival the nearby Prudhoe Bay field, which provides 25% of the U.S. domestic oil supply.

Environmentalists bitterly oppose any intrusion into the Maine-sized Arctic National Wildlife Refuge, 92% of which is off-limits to any exploration. But in 1980 Congress agreed that the remainder could be developed with little or no risk to the environment. However, some Members want to lock it up.

To Senator Max Baucus of Montana it is "one of the five greatest places on earth." But ANWR's coastal plain is no Yellowstone. The area is a barren, marshy wilderness in the summer and a frozen desert the rest of the year. Only about 150 naturalists or outdoorsmen visit it in a given year. The experience of the nearby Prudhoe Bay field indicates that developing ANWR would affect only about 13,000 acres out of 1.5 million, a minute percentage of the whole. All equipment would be carefully removed and the ground reseeded after the extraction of any oil. Environmentalists won't even discuss the issue. "There can be no compromise," says Allen Smith of the Wilderness Society. "The refuge must not be violated, or it will be destroyed."

This sort of environmental absolutism upsets Brenda Itta Lee, and Inupiat Eskimo official from Alaska's North Slope, "Since it's our home, we care about the area even more than others," she says. "But oil revenue has meant a better life for us. If ANWR is locked up, my people lose a lot. A balance can be struck."

Finding a balance between legitimate environmental concerns and the real-life needs of people is at the heart of President Bush's energy program. Its opponents have forgotten that human beings must also be an integral part of the environmental equation.

Mr. MURKOWSKI. Mr. President, the Senate will soon be asked to decide whether to open the Arctic National Wildlife Refuge [ANWR] to oil and gas exploration and development.

Some may never have heard of ANWR. ANWR is a little 19 million acre piece of Alaska tucked away north of the Arctic Circle, next to United States-Canada border. The refuge is about the size of South Carolina, six times the size of Connecticut. Within ANWR there are 8 million acres already designated as wilderness an area the size of Massachusetts.

WHY IS IT IMPORTANT TO OPEN ANWR?

The 1.5 million acre area within ANWR, called Coastal Plain contains the single most promising on-land area in the United States for discovery of major oil and gas reserves. The ANWR Coastal Plain potential reserves could yield the third largest U.S. oil field ever. The mean estimates are 3.2 billion barrels and high estimates are 9 billion barrels. The Coastal Plain of ANWR could provide 10 percent of U.S. domestic production.

STATUS OF ANWR LEGISLATION

The Johnston-Wallop National Energy Security Act of 1991 was reported out of the Energy Committee on May 23, 1991, and contains ANWR leasing title.

S. 1220 is a balanced bill which contains provisions of energy conservation, development of alternative energy sources, and increased domestic oil and gas production.

The environmental activists want more conservation and less production. Conservation as a sole solution is simply not realistic.

I agree we need conservation, but we also need production. History has shown we need both conservation and production.

In the mid-1970's this Nation adopted CAFE standards saving roughly 1.4 million barrels of oil per day. We also brought the Prudhoe Bay field into production at 2 million barrels per day.

FIVE MAIN ARGUMENTS FOR OPENING ANWR

National Energy Security

The United States has become dependent on other countries to meet its energy needs.

The U.S. consumes 17 million barrels of oil per day but only produces 7.4 million barrels per day. Over 50 percent of our oil comes from foreign sources.

The Persian Gulf war showed that the Middle East is unstable, and the problem is getting worse. OPEC countries provide 25 percent of U.S. oil supply today, 53 percent of our imports are from OPEC countries. Compare this with 1985 when U.S. imports were only 31 percent and only 11 percent of U.S. oil supply was from OPEC. Worldwide, OPEC accounts for 33 percent of world oil production.

And U.S. production continues to decline. U.S. oil production is at its lowest point in 26 years. Domestic production is currently 7.4 million bbls/day and dropping at a rate of 3 to 4 percent per year.

Alaska's oil fields, which provide 25 percent of the total U.S. oil production, are also declining. Prudhoe Bay field, the largest oil field in the United States, is declining at 10 percent per year.

Where will our oil come from to replace lost production without opening new domestic oil fields like ANWR? Probably from oil reserves in the Middle East.

Conservation alone is simply not enough. We must make the tough decisions.

Every major oil field in the United States is declining.

Prudhoe Bay, which supplies 24 percent of our domestic oil supply is declining at 10 percent per year.

We must make the tough decisions that will allow this lost production to be replaced by domestic oil fields, not by oil reserves in the Middle East.

The U.S. consumption of oil is flat. The real growth is in the Third World.

Third world energy use is increasing by 10 percent per decade.

In fact third world oil use is expected to rise over 155 percent from 1985 to 2010.

Developing countries accounted for 17 percent of world commercial energy consumption in 1973. Now they account for 23 percent of energy consumption and this consumption is expected to grow to 40 percent by the year 2020.

There are 600 new cars a day in Singapore, Thailand, and Korea. These countries want an increased standard of living.

ANWR is cornerstone of President's NES and Johnston-Wallop bill.

In the Johnston-Wallop bill ANWR revenues fund over 60 percent of the bills conservation measures, everything from energy efficient homes, solar energy, and clean coal technologies, to tax breaks for electric cars.

Admiral Watkins testifed he will recommend a veto if the ANWR title is not in the Johnston-Wallop bill.

This leaves our friends in the environmental community faced with an interesting dilemma.

If they strip ANWR out of the Johnston-Wallop bill or succeed in putting ANWR into wilderness then they bear the responsibility for killing the entire energy strategy.

CONCLUSION

Mr. President, 150 to 200 people visit ANWR each year. How does that compare with the millions of Americans who would benefit from reducing our excessive dependence on imported oil? In addition ANWR could create 735,000 jobs nationwide and boost our GNP by $54 billion.

These are some of the important issues my colleagues need to understand as the Senate debates the merits of opening ANWR and the future of the entire national energy strategy.

Mr. WALLOP. My thanks and respects go to the chairman of the committee, Senator JOHNSTON, without whom none of these efforts would have taken place. I again point out this is a bipartisan comprehensive effort.

EXTENSION OF MORNING BUSINESS

Mr. WALLOP. Mr. President, I ask unanimous consent that the time for morning business extend for 5 minutes, with the time going to the Senator from North Dakota.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. I yield the floor to the Senator from North Dakota.

ENERGY SECURITY

Mr. CONRAD. Mr. President, I thank the Chair and the Senator from Wyoming as well.

First of all, I commend the chairman and the ranking member and the other members of the Energy Committee who have brought this bill to the floor.

Mr. President, I do not know what could be more clear than that this Nation requires an energy policy. The only policy we have had for the last decade can be summed up in one word, "import."

Today, as we meet, Mr. President, we are importing 50 percent of the oil supplies required by this country. We have spent over $50 billion importing that oil and, we have just had 500,000 young Americans put their lives on the line, at least in part because of our dependence on foreign crude oil.

What could be more clear than the time is now for a national energy strategy and a national energy policy?

What will it take before people are ready to come to this floor and cast the tough votes and to say to each and every one of these interest groups now is the time to put the national interest above the special interest?

Mr. President, do we have to wait until we are 65 percent dependent on foreign crude oil? Do we have to wait until this Nation is held hostage by a series of foreign potentates before America responds? I hope not.

Every interest group has its view on this bill, Mr. President. The administration opposes stronger fuel efficiency. The automobile industry opposes stronger fuel efficiency. The environmentalists oppose opening ANWR. The administration says if you do not open ANWR, we are against the bill. The oil industry opposes alternative fuels, and on and on it goes. Interest group after interest group is opposed to some part of this bill.

The attitude is: "This dog has fleas. Let's kill it." If that is the attitude that prevails on the floor, Mr. President, we will have no energy bill.

This is not a perfect bill. Mr. President, I strongly agree with some on the floor today who say that we should have stronger fuel efficiency standards in this bill. I fought for that in the committee. I will fight for that on the floor. It ought to be included, it ought to be part of a national energy strategy and a national energy plan.

But, Mr. President, fuel efficiency alone is not an energy policy. Fuel efficiency alone is not an energy strategy. This bill does provide the framework. This bill does provide alternative fuels, renewables, conservation, production. This bill does provide the framework.

Thirteen hearings, Mr. President, thirteen markup sessions, untold hours of effort have gone into this bill. It is a good framework. It is considered legislation, and it deserves to be considered.

Mr. President, the time is now. What could be more clear than the national interest demands a national energy strategy and a national energy bill? The chairman and ranking member have brought such legislation to the floor. They deserve our support. This bill can be improved, it should be improved, and I hope it will be. But the bottom line, Mr. President, is this bill provides the framework for moving this Nation forward. I hope my colleagues will pay close attention to the details and support it.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise today to join with a number of my colleagues to express my concern about S. 1220, the National Energy Security Act. This bill would put the Nation in overdrive for environmentally destructive energy development and leave us in neutral on increased fuel efficiency.

Today I want to discuss two of the fundamental flaws in the bill—the absence of a mandated increase in automobile fuel efficiency standards and the proposed oil and gas development of the coastal plain of the Arctic National Wildlife Refuge [ANWR].

Mr. President, we often hear talk about "the energy crisis." But the United States does not have a shortage of energy. Rather, we are too dependent on liquid fuels and too reliant on foreign oil—a reliance which makes us dependent on foreigners, and which adversely affects our balance of trade. Too much of the world's oil is under the control of the Mideast countries—37 percent of the world market, and 24 percent of U.S. imports. And U.S. oil imports are too high—around 50 percent of our oil use or roughly 8.5 billion barrels per year.

Energy use has another important dimension, its effect on our environment. Some sources of energy cause significant, adverse environmental impacts—local, regional, and global.

So, in establishing energy policy, we must reduce our reliance on unstable sources of oil and stimulate sources of energy which minimize environmental impacts. In my view, this means the heart of our policy should be energy conservation. The United States has an enormous potential to conserve energy. If the United States used energy as efficiently as Japan, we could lower our national fuel bill by $200 billion every year. Per capita energy use in the United States is more than double that of Japan, France, and Italy and close to double that of the United Kingdom and West Germany. We must tap into our energy conservation potential.

We also must develop clean alternative fuels and renewable energy sources.

Unfortunately, S. 1220 focuses on environmentally damaging energy production and gives short shrift to energy conservation.

The single most important step we can take in addressing this energy crisis is to increase automobile fuel efficiency standards. Over 60 percent of our use of oil is for transportation. So if we are going to reduce our dependence on oil, we must focus on the transportation sector and increase automobile fuel efficiency.

That is why I am a cosponsor of S. 279, the Motor Vehicle Fuel Efficiency Act. It expands on the original 1975 Corporate Average Fuel Economy [CAFE] Act which resulted in an approximate doubling in automobile fuel efficiency. Despite the auto companies' fears that the standards were unachievable, they managed to meet those standards. The increased CAFE stand-

ards in S. 279 would result in an additional savings of over 2 million barrels of oil every day by 2005. That's 2 million barrels of oil which do not have to be imported—each and every day. A renewable source of 2 million barrels of oil a day.

Increased CAFE will reduce emissions of carbon dioxide. The United States emits more CO_2 than any other nation—about 20 percent of the world's CO_2 emissions. And automobiles account for 25 percent of the U.S. contribution of CO_2 emissions. So if we are going to be serious about reducing emissions of greenhouse gases as was recommended by the National Academy of Sciences, we are going to have to increase our fuel efficiency.

Mr. President, S. 1220 does not require an increase in fuel efficiency standards. It merely gives the administration the authority to set a higher standard. That's like letting the fox guard the chicken coop. This administration has done little to hide its disdain for an increase in CAFE standards.

S. 1220 would instead open the Arctic National Wildlife Refuge to oil and gas drilling. It would have us try to produce our way out of our oil shortage. But Mr. President, we can save almost 10 times more oil each and every day by 2005 through increased CAFE standards than we can through drilling in ANWR. And even if oil is found in ANWR, it is a finite resource. It will run dry.

But even more is at stake in ANWR than energy development. After the *Exxon Valdez* spill 2 years ago, I visited both the spill and the coastal plain of ANWR.

What I saw was the best of nature and the worst of man.

I saw the best of nature in the Arctic Refuge, an area which even the Department of the Interior says, "is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America."

Beauty, wilderness, pristine. These words simply fail to capture what I saw, and what is at stake if we allow oil and gas drilling to proceed.

Unfortunately, in seeing the spill in Prince William Sound, I saw the worst of man. I saw how carelessness despoiled a rich ecosystem. Dead wildlife, oil-coated beaches.

This devastation by man stands in stark contrast to the beauty of nature I saw.

And that is what is at stake as we consider S. 1220. Do we want to preserve that unique beauty of nature? Or do we want to create an industrial complex of drill sites, waste pits, roads, pipelines, spills, and pollution?

Do we want to develop the ANWR, to keep feeding our fossil fuel appetite, or do we want to conserve fuel resources, develop alternative sources of energy and preserve our pristine lands?

Mr. President, S. 1220 fails to establish the energy policy that we need and that the American people want. I will be working with my colleagues in the days ahead to develop a policy which provides the emphasis on energy efficiency, alternative fuels and renewable energy which we need.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. MITCHELL pertaining to the introduction of S. 1399 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there any time remaining for morning business?

The ACTING PRESIDENT pro tempore. There are 2 minutes remaining.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for morning business be extended until 10:10 a.m. to permit the Senator from New Mexico to address the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1400 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, I want to commend Senator JOHNSTON for taking on the effort to craft a necessary and long awaited energy strategy. For the past decade the Nation's energy strategy has been no strategy at all. In stark contrast, S. 1220 addresses almost every aspect of the energy area. Senator JOHNSTON's diligence in this area, and his legislative competence, are impressive. His bill without question an impressive product. However, there are provisions in the bill that I find extremely troubling. I am not prepared today to detail my view on the whole bill, but instead would like to focus my attention on an issue of great concern to me because it undermines some of the accomplishments contained in last year's Clean Air Act.

I am very concerned with section 14201 of S. 1220 known as the WEPCO fix, because it would exempt nearly all refurbished powerplants from controls required by the Clean Air Act of 1990. This section would undermine important pollution control programs designed to curb acid rain and urban smog. If enacted into law, the amended section could result in large localized increases in sulfur dioxide and nationwide increases in nitrogen oxides and particulate emissions. As we discussed last year during the clean air debate, these pollutants harm human health, damage forests and lakes, shroud our national parks in haze, and cause urban smog. This unprecedented weakening of the Clean Air Act of 1990 would harm public health and our environment.

Last year I thought we made it abundantly clear. Sulfur emissions from coal-fired power plants combine with moisture in the atmosphere to form acid rain. Acid rain kills our rivers, lakes and streams in New England, destroys our forests and causes structural damage to our historical buildings and statues. But most important, acid rain causes thousands of premature deaths annually.

In a study known as the Harvard six-city study, it was found that exposure to acid air pollution, particularly fine particles associated with airborne sulfates, produces respiratory symptoms in children, particularly an increased incidence of bronchitis in children.

The Environment Committee concluded:

> There is no disagreement among medical researchers that precursors of acid rain are a serious health threat.

In addition to the increased health care costs, acid rain is bankrupting our environment. The Congressional Research Service reported in a study that acid rain and air pollution annually causes $1.7 billion in forest-related damage in the eastern United States. An Office of Technology Assessment study estimated that 3,000 lakes and 23,000 streams in the eastern United States are already acidified or have virtually no acid neutralizing capacity left. Fishing and tourism industries also suffer.

Mr. President, powerplants also spew nitrogen oxides (NO_x) into the air, which causes four air pollution problems. First, NO_x combines with moisture to form acid rain. Second, and more deadly, NO_x combines with hydrocarbons in the presence of sunlight to form ground level ozone, often called smog. Third, NO_x contributes to the growing threat of global warming by trapping heat in the atmosphere. Fourth, airborne NO_x emissions are responsible for one quarter of the nitrogen pollution in the Chesapeake Bay, and pollutes other bodies of water as well.

Ozone is a major lung irritant, and can cause or exacerbate respiratory ailments. Children, senior citizens, and people already suffering from lung ailments are particularly vulnerable to harm from smog. Scientific evidence indicates that over the long term,

chronic exposure to ozone may produce an accelerated aging of the lung analogous to that produced by cigarette smoke exposure.

Over 80 metropolitan areas around the country currently violate Federal health standards for urban smog, exposing over 100 million Americans to unhealthful levels of air pollution. Recent studies by Harvard public health researchers determined that 2 to 4 percent of excess deaths in New York City were due to air pollution.

Particulate emissions also pose a direct threat to human health. A recent study by the Environmental Protection Agency [EPA] determined that particulates cause tens of thousands of premature deaths annually.

The Clean Air Act regulates emissions of these pollutants from new powerplants fairly strictly, but grandfathers most existing sources permitting them to avoid complying with the stricter requirements. This dual system of regulation was based on the utility industry's assertion that many older powerplants would soon be retired, so the industry argued that it made little sense to require the installation of expensive pollution controls on aging plants. The retirement of existing sources over time would mean that eventually all sources would operate under tighter new-source rules.

Once this dual system was established, however, many utilities then wanted to evade the stricter controls required for new powerplants by significantly refurbishing the old plants to extend their lives. To eliminate this loophole which allows continued high levels of pollution from refurbished plants, the act now requires these plants to meet the same, stricter standards required for new powerplants. Section 14201 of S. 1220 creates a giant, dangerous loophole in the Clean Air Act by enabling refurbished powerplants to evade new-source-emission requirements.

Section 14201 of S. 1220 would weaken the Clean Air Act of 1990 in the following ways.

First, refurbished powerplants would be exempt from new source performance standards, the stricter emission standards required for new powerplants, even if refurbished plant increases its actual power generation and consequently its sulfur emissions.

S. 1220 allows refurbished powerplants to evade new source performance standards as long as the refurbished plant does not "increase the maximum hourly emissions of any pollutant regulated under that section above the maximum hourly emissions achievable at that unit during the last 5 years of operation prior to the change."

This provision purports to protect people from increased emissions from a refurbished powerplant. However, a powerplant could add equipment that significantly increases its emission as long as it demonstrates that it theoretically could have emitted pollution at a higher rate.

For instance, an old powerplant which was only used to provide power at times of peak demand would have a relatively low level of emissions reflecting its low level of use. If a new boiler is installed, this plant could be used to provide significantly more power than before it was refurbished, thereby significantly increasing its emissions. Nonetheless, this higher level of emissions from the refurbished plant could still be lower than what the plant theoretically could have emitted before it was refurbished. This refurbished plant would be exempt from meeting new source performance standards even though it significantly increased its emissions.

Proponents of this provision could argue that the overall cap in sulfur emissions established under the Clean Air Act of 1990 will prevent nationwide increases in sulfur emissions. However, this new loophole could lead to significant regional or local increases in sulfur emissions which would harm nearby citizens and the environment.

For instance, a midwestern utility could increase its sulfur emission from its refurbished powerplant under S. 1220. These sulfur emissions could travel to the Northeast, combining to form acid rain in New England. And although the act allows this utility to buy emission credits from a low-polluting western utility, this transfer of pollution from west to east would not have occurred without S. 1220 because the refurbished midwestern plant would have had to meet the stricter controls required of new sources. In other words, although the nationwide level of sulfur emissions would remain the same under S. 1220, there could be significant increases in regional or local levels of sulfur emissions and acid rain.

Nearly all powerplants with capital investment projects would be exempt from park protection and air quality standards.

Under the Prevention of Significant Deterioration Program of the Clean Air Act, a new source of air pollution outside a national park or other area with good air quality must undergo a review to determine the impact of its new emissions on air quality in the park. The act prohibits the operation of a new source which would significantly degrade pristine air quality in a park.

S. 1220 would exempt refurbished powerplants from the review required to determine whether it would harm air quality in parks with clean air. Under S. 1220, an existing powerplant outside the Grand Canyon could replace its boiler and expand its capacity and emissions even if it would add more pollution to the air over the Grand Canyon.

Similarly, the Clean Air Act requires a new source of pollution in a city which violates Federal air quality standards to undergo review to determine its impact on local air quality. Under S. 1220, a refurbished powerplant with increased emissions would be exempt from this review, and thus from any requirement to reduce its emissions so that it does not worsen pollution in an already dirty city. In fact, there is no limit on the size of the pollution increase allowed under this loophole.

S. 1220 would exempt any capital construction project at a powerplant from new source standards and requirements if the project is "primarily for purposes of reducing emissions"—section 14201(b). There is no requirement that the reduction must actually occur at the particular site. Thus, even if the project would lead to a decrease in emissions elsewhere, through emissions trading, there would still be a significant increase in local air pollution. And any project whose costs are barely 50 percent for pollution control with the rest for life extension of the plant would qualify for the exemption from park protection and Federal health standards.

Refurbished powerplants would be exempt from new source controls on nitrogen oxides, a major component of dangerous urban smog. These plants would also be exempt from new source controls on particulates.

This exemption would perpetuate urban smog by allowing rebuilt plants to comply with much more lenient NO_x requirements for existing sources rather than meet the stricter standards for new sources. The provision would also exempt all currently operating units, no matter how extensively they will be expanded or modified in the future. And unlike sulfur dioxide, there is no nationwide cap on NO_x emissions, so S. 1220 would lead to an unlimited nationwide increase in NO_x emissions. S. 1220 would also lead to a similar nationwide increase in deadly particulate emissions.

The WEPCO fix in S. 1220 pays lip-service to environmental protection, but its safeguards are little more than unenforceable aspirations. The reality is that S. 1220 would allow powerplants to continue high levels of pollution at the expense of the public health and the environment. Last year, Congress considered and rejected proposals to allow refurbished powerplants to evade the controls required for new sources. In effect, S. 1220 attempts to repeal major portions of the Clean Air Act only a few short months after President Bush signed it into law. Many esteemed colleagues and I have sent a letter to Senator JOHNSTON to strongly urge him to remove section 14201 from S. 1220. There are indications that he is considering doing just that. Mr. President I ask unanimous consent that the

letter be included as part of the RECORD.

In addition, S. 1220 includes many other provisions which could increase threats to human health and the environment while accomplishing little to achieve energy security. I intend to carefully examine these other provisions to determine the extent of their threat to increase pollution and global warming.

Finally, EPA recently issued a proposed rule governing refurbished powerplants. Rather than clearly defining the new source requirements for refurbished powerplants, the proposed rule creates exemptions and loopholes similar to those in S. 1220. This proposal would cause much of the same harm to the public health and the environment as caused by S. 1220. A coalition of Governors and other parties determined that the proposed rule, "goes too far in that it exempts plants from new source review for NOx and particulate emissions for an emissions cap does not exist. This could slow environmental progress in reducing emissions of these pollutants."

This proposed rule is another example of the Bush administration's efforts to undermine the Clean Air Act of 1990 by shoddy implementation out of the public's eye. I fully intend to work with my Senate colleagues to ensure that EPA's final new source rule adheres to both the spirit and the letter of the Clean Air Act of 1990.

COMMEMORATING UKRAINIAN INDEPENDENCE

Mr. LEVIN. Mr. President, this Sunday is the 50th anniversary of the June 30, 1941, Act of the Restoration of the Independent Ukrainian State. This Sunday there will be a commemoration at the Ukrainian Cultural Center in Warren, MI, as there will be commemorations all across this country, throughout the Ukraine, and indeed throughout the world wherever there are people who love the Ukraine, and wherever there are people who love freedom.

The Ukraine's national holidays, January 22 and June 30, are celebrations of independence and freedom. This year's commemoration occurs at a time of both great hope and concern because of the sweep of historic events unfolding in the Ukraine and throughout the Soviet Union. The course that events will take is unknown, and the eventual destination is uncharted. But one thing is clear: the determination, strength, and resilience of the Ukrainian people is undeniable.

Throughout the years of struggle, the Ukrainian people have retained their culture, language, religion, identity, and pride. This is a profound achievement, and speaks to the richness and strength of what has been preserved.

In honor of this commemoration, we should pay special tribute to those Ukrainians who continue the age-old struggle, and to those patriots who went before. The unending determination of countless generations of Ukrainians will be soon realized. The flames of freedom and independence have burned in the souls of Ukrainians for a thousand years. The embers were never extinguished, and the fire burns with renewed intensity.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. BAUCUS. Mr. President, as chairman of the Senate's Subcommittee on Environmental Protection, I want to advise my colleagues of my serious substantive and jurisdictional concerns about the National Energy Security Act of 1991, which was reported by the Energy and Natural Resources Committee earlier this month.

This bill makes substantive changes in the 1990 Clean Air Act and amends directly or indirectly the Resource Conservation and Recovery Act, the Clean Water Act, and the Oil Pollution Act of 1990. I will discuss my concerns with these provisions at another time because I believe that every Senator should understand fully the complex and controversial nature of this legislation.

To me, however, the most objectionable aspect of the National Energy Security Act is that it would reduce the Interior Secretary to begin selling oil and gas leases in the coastal plain of the Arctic National Wildlife Refuge just over 2 years from now.

More than 20,000 years ago the coastal plain of northeastern Alaska was periodically covered by a large herd of caribou. Its 2 million acres of tundra were home to musk ox, polar bears, and wolves, and millions of waterfowl dotted the landscape.

Today, that area remains largely unchanged. Its pristine rivers and lakes and the lush vegetation of its meadows continue to attract an abundant diversity of wildlife.

Life continues to thrive in this wild, arctic ecosystem, often described as America's Serengeti Plain, because it currently is protected as part of the Arctic National Wildlife Refuge. But the Energy and Natural Resources Committee voted by the narrow margin of 11 to 8 to change forever a magnificent national treasure.

I have a different vision. It is one found in legislation sponsored by myself and 22 other Senators, S. 39. It is one that would preserve America's Serengeti Plain for future generations.

I intend to seek the approval of the Environment and Public Works Committee for this legislation.

I would have taken this step over 2 years ago, but before the Environmental Protection Subcommittee could begin consideration of this bill, the *Exxon Valdez* tanker dumped 11 million gallons of oil into the pristine waters of Prince William Sound. It was a disaster that we had been promised could not happen.

Once again, many promises have been made that there is no need to choose between having a wild, naturally functioning ecosystem of abundant fish and wildlife and having extensive oil and gas development.

But if that is true, then why does the National Energy Security Act prevent "further findings or determinations of compatibility by the [U.S. Fish and Wildlife Service] under the National Wildlife Refuge Administration Act" with respect to activities in one and a half million acres of the Arctic National Wildlife Refuge?

The Refuge Administration Act, which is within the jurisdiction of the Environment and Public Works Committee, restricts use of refuge lands to those activities that are found to be compatible with the primary purposes for which a refuge was established. The National Energy Security Act dismantles this key safeguard for the Arctic Refuge.

The National Energy Security Act would further facilitate the conversion of arctic wilderness to oilfields by making the determination that the Department of the Interior's final legislative environmental impact statement [LEIS] on the coastal plain is adequate and satisfies the legal requirements of the National Environmental Policy Act [NEPA].

The communication from the Secretary of the Interior transmitting this EIS on the coastal plain was referred solely to the Committee on Environment and Public Works.

I chaired a hearing before the Environmental Protection Subcommittee on May 10, 1991, to evaluate the adequacy of the Interior Department's final LEIS on the coastal plain. That hearing and my review of related information have led me to conclude that the final LEIS is, in fact, not adequate and that it fails to satisfy the legal requirements of NEPA.

The impacts to fisheries and wildlife from oil exploration, development and production were not considered fully and properly.

The report and the recommended development were not consistent with our international treaty obligations concerning caribou, polar bears, and migratory birds.

The effects on air and water quality and the supply of fresh water resources were not assessed thoroughly.

The effects of oil and gas development in the Arctic Refuge's coastal plain were not examined critically in terms of the cumulative impacts of such development in the Arctic region.

A complete review of the Coastal Plain's wilderness and recreational po-

tential was not conducted and assessed fairly.

Finally, adequate consideration was not given to alternatives to leasing the coastal plain's oil and gas resources, alternatives such as development of other potential sources of oil, development of other sources of energy, and improved energy conservation.

Let me be clear about one thing. I support wilderness designation for the Arctic Refuge's coastal plain.

But to my colleagues who are undecided on this issue, I stress the importance of assessing the impacts of development as fairly and definitively as possible before any decisions are made by Congress to change the present management of the coastal plain.

George Schaller, one of the world's foremost field biologists and conservationists, recently listed 5 areas on this Earth that should be saved for their own sake because they are so special. One of those areas is in northwestern Tibet. Two are in Africa. Yellowstone National Park is another, which comes as no surprise to those of us from Montana.

The fifth area in all of this magnificent world identified by Dr. Schaller is the coastal plain of the Arctic National Wildlife Refuge.

The oil spill in Prince William Sound has taught us that the promise of not having to choose between an intact arctic ecosystem and extensive development is a promise, that no matter how well-intentioned, cannot be kept. We do have to choose.

The mere exploration for oil and gas that would follow leasing would leave the Arctic Refuge permanently scarred. In exchange for the certainty of that harm, the Nation's major oil companies would have gained the right to roll the dice, or to flip a coin, on finding oil. And even if the oil companies win the coin toss, the amount of oil that could be economically extracted would most likely provide this country with little more than 6 months supply of oil.

I reject a policy that, for 6 months of oil, would sacrifice what the Interior Department called "the only conservative system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America." Yet, development of the wildlife-rich wilderness of the Arctic National Wildlife Refuge is the centerpiece of the National Energy Security Act and the administration's national energy strategy.

Ninety percent of the 1,100-mile northern coastline of Alaska—offshore and onshore—has already been devoted to energy exploration and possible development. Only the 110 miles of the Arctic Refuge's coastal plain remains off-limits. We do not have to develop the last and best 10 percent to have a sound energy policy for this Nation.

For 10 years the administration's policy, first under President Reagan and then President Bush, has been one that has suffered from the tunnel vision of chasing cheap oil while shunning energy conservation and efficiency. We need oil. The single-minded pursuit of oil for the past decade has made American families and businesses more vulnerable to oil price shocks.

It has reduced our ability to compete with Japan, Germany, and other nations in the world marketplace. And it has contributed to global warming, air pollution and other environmental problems.

Our problem with imported oil is its price, not its availability. Most of the world's oil reserves lie in the Persian Gulf. Instability in that region produces large shocks in the price of oil.

The United States has only 4 percent of the world's oil reserves and much of what is left is inaccessible and expensive to develop. No matter how hard we try—no matter how much of our natural heritage we destroy—the United States cannot produce its way out of our current vulnerability to oil price increases.

The road to secure this Nation's future—the road not taken by the administration—is one that lies in the opposite direction. It is one that follows increased energy efficiency and development of other energy sources. It is one that leads to enhanced security, a more competitive economy, and a cleaner environment.

Our national energy strategy should not abandon domestic oil production. This country's policy should provide economic incentives to encourage exploration and development of the tens of millions of acres already under lease in Alaska, Montana, and elsewhere. But the way to protect ourselves from huge, overnight increases in the price of oil—to prepare ourselves now for the future—is to use oil more efficiently and to become less dependent upon it. This fact is as true in our own lives as it is true for the Nation as a whole.

The less oil we need to run our businesses, drive our cars and heat our homes, the less we have to spend out of each paycheck as a result of oil price increases that we never will be able to control.

During the Reagan years, virtually every Federal energy conservation policy was dismantled. The Bush's administration's national energy strategy and the National Energy Security Act continue to shun the quickest, cheapest and most effective energy options in favor of ones that are the most costly to the Nation's economy and environment. We should weight our options and pick the best buys first.

Energy efficiency is the cheapest and most immediate means of protecting ourselves from increased oil prices. An increase in fuel economy standards to 40 miles per gallon could save as much as 22 billion barrels of oil by 2020. If homes were fully insulated and used the most efficient furnaces and water heaters, the United States could save the equivalent of 16 billion barrels of oil by that time.

Just equipping America's 1 billion light sockets with high efficiency bulbs, would save an additional 600 million barrels of oil. A sound energy policy is one that plans for the future. It is one that protects our climate and environment and promotes wise energy choices. It is not one that requires drilling in the Arctic Wildlife Refuge.

For that reason, among others, Mr. President, I am firmly opposed to the National Energy Security Act.

JULIANNE STILL THRIFT: HIGHER EDUCATION'S CHAMPION ON THE HILL

Mr. HOLLINGS. Mr. President, Julianne Thrift is well known to many of our colleagues, especially to those of us who keep a special eye on education issues and student aid appropriations. We have recently received the bittersweet news that, later this summer, she will be leaving her post as executive vice president of the National Association of Independent Colleges and Universities to become the first female president in the 219-year history of Salem College in North Carolina.

Mr. President, the country is gaining a terrific new college president, but American higher education is losing its best fighter and advocate, bar none, here on Capitol Hill. For more than a decade, now, many of us have waged on ongoing battle to prevent the gutting on Federal aid to education. Fortunately, higher education is one policy area where there really is an "iron triangle' of Senators, lobbyists, and special interests, and I can tell you that Julianne Thrift is the iron in that triangle. She has been our Joan of Arc, a woman with a mission, a fighter, and a crusader in the best sense of the word.

Thanks in large measure to Julianne and NAICU, we have seen solid increases in student aid in each of the last 3 years. In part this is thanks to the superb government relations team she has assembled, recognized in Washington as one of the best, and a good example of the maxim that first-rate people hire first-rate people.

Credit also goes to Julianne's tireless effort to mobilize hundreds of college and university presidents—high-profile community leaders representing virtually every congressional district in the country—as lobbyists for higher education in the halls of Congress. This has been an inspired effort. We respect those people; we listen to them; and their lobbying has had a tangible influence on Members' votes.

My hat is off to the search committee down at Salem College. They conducted an ambitious national search, had over 100 serious applicants, and

they quickly settled on Julianne Thrift as their first choice.

Julianne's departure for Winston-Salem will leave a void here in Washington. She has been a real pillar at NAICU. Especially during the change of NAICU presidents in 1988, she was the stabilizer and the bedrock of the association. She is much beloved there, as she is in many circles in this town.

Nonetheless, she faces a superb challenge at Salem College, challenge that she will tackle with great energy and success. Julianne is deeply committed to the special mission and purpose of a woman's college. And I have no doubt that she will work wonders for Salem.

I know how proud her husband, Ashley, and daughters, Lindsay and Laura, are of her many accomplishments. Likewise, I can tell you that those who question whether a woman can be a super-achieving professional and also a tremendously dedicated wife and mother, they just haven't met Julianne Thrift. We all admire this remarkable woman. We congratulate Julianne and wish her the very best of luck.

INTERNATIONAL ARMS TRADE

Mr. ROTH. Mr. President, the United States now stands at the peak of its ability to exercise world leadership in controlling the international conventional arms trade. We have in front of us the development of a new era in East-West relations and the construction of democratic governments in Eastern and Central Europe. We have a victory behind us in the Persian Gulf. And we have the eyes of the world upon us to exercise leadership in halting the unmonitored and unrestrained trading in conventional weaponry that has been a part of the old world order for the past several decades.

We must seize this opportunity, Mr. President, before the momentum is lost and before another Iraq is allowed to develop. The recent initiative of President Bush calling for establishment of guidelines for restraints on conventional arms transfers to the Middle East is a welcome step. Yet, our efforts in mustering the international cooperation which is essential to any progress in this area must be comprehensive, and our approach many-faceted. One concept certainly deserving of more attention is that of transparency—in other words, increasing the amount of information that is publicly available about international arms transfers. Enhanced transparency is not an end, but a means to an end. It is but an initial component of an effective multilateral control regime for conventional arms transfers, yet one which can go a long way in fostering motivation for future steps.

At recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, several witnesses testified about the increasingly unfettered selling tactics prevalent in today's global arms market. Over 60 nations—many of them in the Third World—are engaged in arms manufacture and export. And most of these are dependent on exports in order to keep their indigenous defense industries viable. Although the overall volume of global military transfers has declined in recent years, activity in the international arms market has not abated as suppliers vie for shares amidst increasing competition.

One of the points which was illustrated clearly by the witnesses at this hearing is the dearth of information which exists regarding individual transactions in the conventional arms market. Although overall arms sale volumes can be approximated and certain individual transactions tracked, there is little or no information publicly available about the vast majority of conventional arms transfers. Without such information, it is impossible to assess the adequacy of our existing regulations or sensibly to contemplate enhanced controls.

The United States is uniquely able to take the lead in encouraging greater transparency in the arms market. Our defense industry is one of the most transparent in the world, with congressional reporting requirements for all major sales built into our export control regime. This is not so in other nations, including many of our NATO allies, where arms transfers are often closely guarded secrets.

Mr. President, a prudent first step which I would urge be given serious attention is a call to all nations—in particular to our fellow members on the U.N. Security Council at the coming Paris conference, and to our NATO allies—to introduce enhanced transparency into arms sales—at least to a degree parallel to that which exists in the United States. Perhaps we, too, can go further as time progresses. Yet this represents a good starting point.

There are several ways to bring about enhanced transparency in the international arms market. The one currently receiving the most attention—including the support of British Prime Minister John Major—is the introduction of an arms registry in which certain information about arms sales and purchases would be recorded. President Bush, in his Arms Control Initiative, called for an annual report on arms transfers by the five major suppliers to the Middle East. This could form the basis of a more comprehensive registry. Although conceptions of an arms registry vary, most agree that it could be devised in such a way so as to ensure protection of legitimate proprietary concerns. One idea—an idea favored by Great Britain, Germany, and several other nations—would be a registry which, at the outset, would be limited to the main supplier nations—the Permanent Five—and would cover the major weapons categories as defined in the CFE negotiations. Such a registry, by including the vast majority of conventional arms transactions, would serve as a basis for enhanced controls in the future.

Institution of an arms registry and introduction of increased transparency have several other advantages recommending them: The cooperative and consultative spirit engendered by multilateral collaboration to develop a registry would carry over into other efforts in controlling the arms market. The international pressures fostered by participation in such a registry would exert positive regulatory influence on traders in the international market. And, the increased attention brought to arms transactions would assist efforts to muster increased political will to bring the arms trade under control.

Mr. President, we have a large task ahead of us, yet one which we cannot ignore. Increased illumination of the extent and workings of the conventional arms market and closer multilateral cooperation are crucial components of a successful strategy for ensuring the peace and tranquility of the new world order.

CONCERNS WITH THE COMPREHENSIVE ENERGY BILL

Mr. ROTH. Mr. President, I rise today to express my concerns with the comprehensive energy bill, S. 1220, that the Energy and Natural Resources Committee has recently approved.

During my years in the Congress I have expressed my belief concerning mankind's responsibility to the environment. Simply stated, it is that man is bound to serve nature through an environmental ethic.

Mankind has the responsibility to pass on a life-giving, life-sustaining, environment to future generations. Our natural heritage ranks high among our most priceless and irreplaceable possessions. To loose it would be a loss to all of mankind.

It is often exhibited that all ecosystems, from Alaska to Africa, South America to Saudi Arabia, are inextricably connected. Not only can destruction in one small area bruise the conscience of man, but it can affect the fragile ecological balance of a tiny world that appears more vulnerable with each passing day.

Perhaps this environmental transcendentalism is nowhere more apparent than in the circumpolar region where the wind, water, fish, fowl, caribou, and other animals and plants know no political boundaries.

Whether the pollution that threatens their pristine and fragile environment comes from the Soviet Union, Brazil, Eastern Europe, or the United States is of little consequence—especially when the contamination begins to affect the native peoples who depend on the ecosystem.

Likewise, the contamination of this precious international resource poses a threat to the entire Arctic region as a scientific laboratory for comparisons of the Earth's health. As someone recently put it: "If the Arctic systems fail, the health and the understanding of the health of the entire planet fails."

Given the fragile ecological balance of this area, I strongly suggest, we fulfill our responsibility as stewards of our land, its resources and the life that depends on it. This responsibility includes efforts that will protect all shared bird and animal resources, wetlands and marine mammals in the circumpolar region.

Likewise it includes commitments we made to the residents of these lands, to continue to provide them with the opportunity for subsistence uses for the resources of these lands. Each of these objectives is worthy, and each is an important step toward caring for our stewardship in this area.

However, the bill does not even adequately begin to demonstrate the willing spirit and many opportunities we can take advantage of toward protecting our environment, while developing a sound energy policy. The protection of the Coastal Plain of the Arctic Refuge is the first step—and the most important first step in this effort.

It should serve as an example of what nations can do with shared objectives, a spirit of cooperation, and little bit of effort.

Mr. President, if we cannot take this important step and protect this area and its pristine wilderness and wildlife from miles of dirty roads, pipelines, mud pits, garbage dumps, and airports, we will soon—I believe even in our own lifetime regret the consequences of our failure to act.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBB). The period for morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Specter amendment No. 381, to establish post-conviction proceedings to ensure that the death penalty is expeditiously carried out.

The PRESIDING OFFICER. Under the previous order, the Senator from New York [Mr. D'AMATO] is recognized to offer an amendment on which there will be 30 minutes of debate, 20 minutes controlled by the Senator from New York and 10 minutes controlled by the Senator from Delaware [Mr. BIDEN].

The Chair recognizes the Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 387

(Purpose: To provide for mandatory prison terms for use, possession, or carrying of a firearm during State crimes of violence or State drug trafficking crimes)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. DOLE, proposes an amendment numbered 387.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"( )(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentended to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

"(D) For purpose of this subsection, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled, substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this subsection the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves as substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is federal jurisdiction over an offense under this section if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

Mr. D'AMATO. Mr. President, much has been said with respect to the necessity to do something as it relates to handguns and the control of these guns. We find today that, in certain States, the murder rates have soared. In the State of New York, the city of New York in particular, 70 percent of

the homicides, which were well over 2,000 last year, were committed by guns, handguns for the most part. And so a cry is raised, as it should be, to do something about it. And the question is, how do we do something? How do we go after the criminal, recognizing the Constitution provides that a law-abiding citizen may own and possess a gun?

Mr. President, I am going to suggest that what we have to do is say to the criminal if you use a gun for criminal purposes, we view this very seriously and you will pay a price.

What my legislation does is it places mandatory sentences on those who use guns in the commission of a crime. Basically, it is rather simple. Almost all guns traverse interstate commerce. We have the ability to say—the Congress of the United States—if you use the gun in the commission of a crime that you violate a Federal law, a violent crime; 10 years the first time. If you discharge that weapon; 20 years. If you have a silencer or a muzzling device, and that takes it to the area of those who basically are killers for hire, 30 years.

I am going to touch on some basic facts as it relates to what is taking place in a State that has the toughest gun laws, probably, in America, the State of New York. The statistics are staggering. We have a revolving criminal justice system and, I might add, that approximately 75 percent of all violent crime in New York is either directly or indirectly drug related. So not only do we have an obligation to curtail the flow of these weapons by way of the interstate commerce clause and provision, but I think we have a very real moral responsibility to do something as it relates to the drug-induced crime that powers this violence. So there is a very real Federal role here.

I also suggest that our State courts, many times, are just absolutely clogged to the breaking point. They cannot handle it. So we have to plea bargain, and that plea bargaining flies in the face of the good, decent, honest citizen.

I suggest to my colleagues that what we have is a justice system that is totally broken down, and we recognize that 6 percent of the criminals commit about 70 percent of the crime. Those are the statistics that come out of our system.

Let me suggest to my colleagues that in 1988, almost 70 percent of New York City's murders, 1,896, were committed with guns. In 1989, the homicide rate went to 1,905. So did the other violent crimes, in proportion. In 1990, we had 2,250 homicides. Again, three-quarters of them were committed with guns.

In New York City, the criminal justice system completely fails to stop gun violence. Let me tell my colleagues why. This is why we have to deal with the criminal who is captured using a gun and stop what we are doing. Only 4 in 10 went to prison. So if you catch them and only 4 in 10 go to prison, what we are really saying is that we have a gun law but we do not enforce it. The rest got a variety of sentences.

So, if 4 out of 10 go to prison, half of those convicted receive no jail time at all. Fewer than 30 percent of those convicted on the basis of criminal possession of a weapon were sentenced to prison last year. A study by the New York County District Attorney's Office showed that for arrests involving at least one charge for the illegal possession of a gun, the range of sentences, those who went to prison, was only 1.1 years to 2.9 years.

We make a mockery of the system. Recividism being what it is, we continue to pay the price. Let me tell my colleagues what the price is. I have examples of people arrested numerous times with loaded pistols, who have records, and received no time whatsoever. One of those individuals is Dowie Pringle.

In 1989, he was arrested after a neighbor said that he threatened him with a loaded pistol. He had other convictions: petty larceny, two assaults, and criminal mischief. He pleaded guilty to criminal possession of a weapon. He was sentenced to 5 years probation, and 105 hours community service. I would not be surprised if since that time Dowie has committed other robberies, used guns, and so forth, did other crimes out on the street.

Patrick Blake, same thing. Had a gun, was arrested, was rearrested, back out on the street, spent no time whatsoever. Blake was caught with a loaded .38 pistol. He was again charged with gun possession. This is the second time. He was sentenced in 1989 with probation.

Case after case, it has beaten our people down. It has made our people prisoners in their own homes. I want to refer to a statement made by a great judge, Judge Francis T. Murphy. He is the chief judge of the appellate division, first department in New York. Mr. President, he made a speech which was most eloquent, and I would like to refer to various passages because it is applicable not only in New York City, but most of our urban centers. This was delivered to the Fordham Alumni Association on March 7, 1987. Though it was more than 4 years ago, I think that the facts are even more vivid today than they were then.

He talks about our Constitution and the Bill of Rights and what is taking place. He says, "* * * the Bill of Rights will be center stage" as we talk about the bicentennial of the Constitution, as it was in 1987 as we were celebrating. He said:

> What kind of people have we become?
>
> Are we the people of the United States who adopted the Constitution in order to "establish Justice . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity?"
>
> After all, a Constitution is only as good as the people who live under it.
>
> Consider how we live in this city, and in cities throughout the nation.
>
> Government has no more essential duty than the protection of the lives of its people. Fail in this, and it fails in everything.
>
> Such a failure is unthinkable, yet the society in which we live was unthinkable only a generation ago. If then someone had said that in 1987 hundreds of thousands of apartment windows in New York City would be covered with metal grates, that private guards would patrol the lobbies, hallways and rooftops of apartment buildings, that streets would be deserted at night and churches locked by day, we would have thought him insane.
>
> We hear but do not listen to the ordinary man and woman. It is they who are the victims of crime, and they in their anguish have something of value to say.
>
> They tell us that their lives, burdened by personal problems involved in simply living, must be led in a society in which a brutal attack upon them by a robber surprises no one. They tell us that they are denied the small pleasures of life—a morning's visit to a church or synagogue, an evening's stroll in summer with one's husband or wife, a subway ride with their children to a park. They tell us that they cannot visit the sick and the dying in hospitals because they may be beaten or killed in a subway or on a street. They say that such a half life is no life at all. They tell us that criminals have taken the city, that crime has beaten government to its knees, that the moral passion for justice has been drained out of society and, in its place, there is an overwhelming sense of helplessness. They say that they fear that they have grown too used to crime. They wonder whether society, for all its pretensions, has become pitiless.
>
> The ordinary man and woman are right, and everyone knows it, because we are that man and woman.
>
> Has the Constitution established justice, promoted the general welfare, and secured the blessings of liberty to us and our children in such a city?
>
> What has happened to us, a people who once knew how to fight back?
>
> What makes us submit passively to universal vandalism, robbery, and assaults of every kind?
>
> What makes us so timid, so weak, that we will allow ourselves to be violated?
>
> Do we feel no shame that we live in the most criminally violent nation in the West?

Mr. President, let me suggest that Judge Murphy's words are more true today than they were in 1987. The responsibility of Government is to provide for the domestic tranquility; that we have no freedom when people live as they do, in fear, in half a life, as Justice Murphy has indicated, fearful not only for themselves but for their children.

There will be some who argue that my amendment violates States' rights. I suggest it does not. I suggest it gives to the Federal Government the ability to prosecute and the Federal Government is not going to willy-nilly undertake that but may be able to help some of our beleaguered inner core cities. We have an obligation to step forth and do

that and to utilize our resources, if we have to build prisons to take violent criminals off the streets and bring about a sense that the justice system is real and that if you violate the law, there is a good chance you are going to be caught and that you will be punished appropriately. It is the only way we are going to stop the carnage that is taking place in our streets.

So those who would like to say States' rights, States' rights, what kind of right do you give to citizens that they are fearful of leaving their homes, if you say give it to State prosecutors and they cannot handle it and the courts are overwhelmed and 60 percent of those who should be in prison walk right out? The recidivism continues and sends a terrible signal. And people are right when they say we do not care. All the niceties and all the social programs we talk about, and they are important, pale in comparison when providing for domestic tranquility.

Mr. President, this amendment, I believe, if passed into law will give us the ability to deal with violent crime, to stop these measures and nonsense about waiting periods, et cetera. That is nice, and reasonable people may disagree. But you are not going to deal with the predator who is out there today, and that is what we have to do. I think we have a responsibility in this Congress to stand up and to begin to fight for the ordinary, decent, law-abiding citizen.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I know the floor manager, the chairman of the committee, is not present at this point, and I will yield myself 5 minutes so as to reserve some time for him to address this issue as well.

Mr. President, I do not often speak on issues such as proposed since I am not on the Judiciary Committee, and we have had a great variety of amendments and are going to have a great variety more today, but I am compelled to speak on this amendment because I think it is the greatest example of preemption of State law that I have encountered since I have been in the Senate.

As I understand the amendment of the Senator from New York, what he is doing is saying that we in the Federal Government are going to come in and dictate to State judges what the sentence will be in cases that they try. We are going to dictate the sentence in State courts with State prisoners for violating State crimes, and we are doing this under our so-called commerce clause power because the firearms involved may have crossed the State line at one point or another.

Mr. President, I would suggest, first of all, that it is very questionable whether we have constitutional authority to be essentially federalizing the State criminal justice systems throughout this country.

I served as attorney general of my State for 4 years. I know we have in this body several former attorneys general. The idea that the Federal courts, or the Congress, would come in and dictate to us in the State judicial system what sentences we had to impose for violation of State law is something that really never occurred to me.

I know that we are anxious to demonstrate our concern for the criminal activity that occurs in this country, and it is a very real concern. I certainly share it. But I can tell you the idea that we would go this far and essentially step in and take cases that are clearly State court jurisdiction cases and try to impose mandatory sentences of these types in those cases just strikes me as the height of folly.

I know we only have 10 minutes in which to respond to this amendment, and I am sure that the Senator from Delaware has some points he wants to make. But I do wish we could have had a hearing on this issue. We could have brought in some attorneys general from around the country. We could have brought in the U.S. Justice Department. I would be anxious to know what the U.S. Attorney General thinks about the idea that we would mandate particular sentences for State judges to impose in State courts.

That strikes me as beyond the pale, and I am as anxious as the Senator from New York and any of my colleagues to deal with the real problems of the criminal element in our society. But I would suggest to you, Mr. President, that we should not totally discard our Federal system of Government in this effort to get tough on crime.

If there are problems, as I am sure there are, in the State of New York in the particular defendants that the Senator has referred to not getting adequate sentences, that needs to be dealt with at the State level, and we need to help State law enforcement to do that. But mandating Federal sentences for these State crimes is certainly not the way to proceed.

I know we are in a frenzy to pass tough, get-tough-on-crime legislation, but I hope people will use common sense and refrain from embracing this kind of amendment. I urge my colleagues to defeat the amendment.

I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 5 minutes 34 seconds.

Mr. BIDEN. Mr. President, I ask unanimous consent that the time of the Senator from New York be extended by 5 minutes and the Senator from Delaware be extended by 5 minutes.

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

Mr. BIDEN. Mr. President, we all have our jobs in the Senate. I know it is Woodrow Wilson who once used the phrase "Congress in committee is Congress at work." The way this place works is we each come here and we get assigned to various committees and we end up having the work of that committee, the subject matter of that committee consume a great deal of our time.

I am not sure I would have chosen, if I had a chance to do it all over again, but it seems that a significant portion of my adult life has been consumed by dealing with the criminal justice system in this country. As chairman of the Judiciary Committee, the bulk of my time is dealing with this issue.

Now, I have worked with my friend from New York since he has been in the Senate, and I can say without exception there is no one with whom I have worked who has evidenced a greater interest, has been more concerned, has invested more time for a noncommittee member than the Senator from New York [Mr. D'AMATO] in attempting to deal with the aberrations in our society which we mystically refer to as the criminal element and the criminal justice system.

But, Mr. President—and I hardly ever disagree with my friend from New York—I get the feeling that what is going on is a frustration level reached by my friend from New York. He has worked so hard to try to deal with the problem of criminals on the streets of not only New York City but upstate New York, central New York, the southern tier, that I think he is just frustrated.

The comments by my friend from New Mexico are right on target. I can tell my friend from New Mexico what the attorneys general would say to this. They would say no to the idea of us coming in and telling the judges in the superior court, or the Supreme Court, or the Appellate Court of New York State, or in whatever the court system, however it is named in the State of New Mexico or in Delaware, the Superior Court in the State of Delaware, by the way, under Delaware law if you convict someone and jurors under the State court system convicted someone, then the Federal judge is going to come in and tell you, the State court judge, to what you must sentence that person.

I say that as one of the coauthors of the Federal sentencing legislation in which we, the Congress, told the judges we are going to tell you how long to put people in jail, because we do not like the way you have been doing it for 20 years. Too many of you judges are

too lenient, we said, and I coauthored that. It is now in law. Judges do not have discretion in the Federal court, remotely like they had before.

Now, some States have not done that. In some States the judges are still too easy. But that is a State court problem that we have never attempted as a Federal Government to change.

In the Biden bill before us, the very provision the Senator wants is included as it relates to Federal courts. We tell the judge, in a Federal court, under the jurisdiction of the Federal Government, under the control of the U.S. Congress, if such-and-such happens and they are found guilty beyond a reasonable doubt after all appeals are exhausted, then you must sentence that person to jail for *x* amount of years. But we have never tried to do that for the State court.

I understand, I truly do. I have watched the Senator from New York since he has arrived try to deal with the situation in this Chamber—and I might add, by the way, support almost everything this Senator has attempted to do. I am about to say something that I do not want to associate my friend from New York with necessarily but one of the reasons we have this problem is the failure of President Bush's criminal justice plan and the failure of President Bush's drug plan.

Let me give you a few statistics. In New York City alone—I am not telling the Senator from New York anything new. He knows this better than I do. In New York City alone, there are 500,000 to 600,000, safe to say, over one-half million hard-core drug addicts. Do you hear what I just said? In New York City alone, as I speak, there are over one-half million hard-core drug addicts walking the streets. Guess what? Hard-core drug addicts commit, depending on their particular addiction, roughly somewhere on the order of 175 felonies a year. It does not take a brilliant mathematician to figure out if it is roughly 175 felonies a year that a hard-core drug addict commits—and there are over one-half of them located in an area not much bigger than Washington, DC, geographically—you have a problem.

But this administration—notwithstanding the help of the Senator from New York—has refused to focus on hard-core drug addicts in their drug strategy. That is the major battle between the Senator from Delware in his alternative drug strategy and the President of the United States.

They want to talk about, and they love to talk about and brag about—and God bless them, we need to be able to brag about something—brag about the fact that casual drug use is down. It is. But hard-core drug use is up. Felonies are up.

Another thing: New York City has been attempting to do something about a gun law so felons, and these folks—hard-core drug addicts—do not get guns. But guess what? They drive across State lines into other States, and they buy their gun where there is no waiting period, where there is no ability for anybody to check whether or not this is a felon purchasing the gun. But guess what? I say to my friend from New Mexico, the President of the United States says I do not want anything to do with that. Let the NRA set my policy, not the police.

Every police officer in America, every organization in America said we want something done about the ability of felons to walk into a gun store, walk up to the counter, plunk down their money, and buy a gun. The Attorney General comes back with a brilliant response to that. He said that is only a 17-percent solution. Do you know what that means? That means he says only 17 percent of these people who are running around New York City shooting folks up, themselves, and shooting other people with guns, only 17 percent of them were bought legally. So let us not bother doing anything about that, only 17 percent—17 percent. Well, golly, 17 percent of somewhere over a million felonies committed a year here, you know, that adds up. As Everett Dirksen said in another context, that adds up to "real" people, real dead people.

One other point I would say to my friend from New York. The national total of drug-related murders is estimated to exceed 2,000.

Mr. President, if we do not do something about the Brady bill, if we do not do something about the DeConcini bill, if we do not do something about having a more rationale national drug strategy, and if we do not do something about what the Senator from New York has been hollering about, asking for, pleading for, I do not know for how long—and that is build more prisons—the reason why I heard the Senator give the statistic. And he is right. Only 40 percent of these folks go to jail. One of the reasons only 40 percent of these folks go to jail is because the Federal court says under the eighth amendment it is cruel and unusual punishment to put four, five, seven, two people in cells that are 8 by 10 with no windows. So they said unless you provide some means to house these folks, you cannot put them in jail.

So what does the administration say? The administration says in their crime bill, we are going to get tough. We are going to change habeas corpus. We are going to change the death penalty. They are for it. Great; we did it.

So far, I mean, it is not law yet. We did it in this Chamber. Then you say, but by the way, we want to do something about criminals.

I ask unanimous consent that I be able to continue for 2 minutes.

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

Mr. BIDEN. So what happens? The administration says, but, by the way, we do not want to do anything about more prison cells other than the ones you forced on us 2 years ago. The Senator from New York says, we have so many drug addicts out there we ought to have prisons to put them in. We ought to have boot camps to send them to. He has been backing me and I have been backing him, and I probably have been backing him for I do not know how long on that point now. It is in the Biden bill, which the administration does not like.

So, look. One of the reasons only 40 percent of these folks do not go to jail is not because a judge sits up there and says, aha, you are a drug addict. You just had a gun you purchased legally. You are a convicted felon. You used that gun and you shot somebody. But do you know something? Even though it is your third offense, I think it is time to be lenient with you.

It is because they look, and the attorney general of that State or any other State stands there and says, well, your honor, we are still under court order. The judge says we are going to send this guy to jail. He said, your honor, we only have 2,000 prison spaces and we have 2,747 people in there and the Federal courts already ordered us to release 716 of them, and there is no space.

Then that judge sits there in frustration, pulls his hair out, and does what he has no other option to do. That does not mean there are not judges, like in other professions, that are a bunch of dummies. There are some real dummies. There are some who do not understand the problem. That is true. They are in every profession—plumbers, doctors, lawyers, Senators, as we are demonstrating.

So it works that way in every professon. But part of the reason is something has to be done about building more prisons, cracking down on hard-core drug users, and preventing felons from being able to purchase guns, and those who even use them illegally, to stop people in this country from manufacturing guns called things like street sweepers and AK-47's.

I yield the floor. I thank my colleagues.

The PRESIDING OFFICER. The time controlled by the Senator from Delaware has expired.

Who yields time?

Mr. D'AMATO. Mr. President, I hope I will be able to make clear what we are doing here. We are really saying that we are not usurping States rights. But what we are doing is saying that the transportation of a gun that is used in the commission of a felony can be prosecuted by the Federal prosecutor. That is the same thing we do in a whole variety of activities. We have concurrent jurisdiction.

In this bill we talk about not supplanting but we absolutely go to the fact and we say that this will supple-

ment but not supplant the efforts of the State and local prosecutors.

I might point out that in the area of interstate commerce, we have concurrent jurisdiction when it comes to racketeering, when it comes to threats that involve murder, kidnaping, gambling, arson, robbery, bribery, extortion. So this is not new.

Mr. BIDEN. Will the Senator yield for a question? Is the Senator saying that only when a person is convicted in a Federal court does this sentence apply?

Mr. D'AMATO. Yes. Only in Federal court. This does not impose a requirement that would mandate in the State court but only in the Federal court where the Federal prosecutor brings that prosecution where there would be that mandatory sentence.

So we did not attempt in any way to bring about a usurpation of the State sentencing; rather, we say where the Federal prosecutor asserts jurisdiction, as a practical matter, they are going to do that in a relatively limited number of cases. It will be in conjunction with the local district attorneys and prosecutors.

Mr. BIDEN. Will the Senator yield for another question?

Mr. D'AMATO. Yes.

Mr. BIDEN. If the Senator is willing to make it absolutely clear by legislative history—because I think the language in section 924(C), and subsection (a) is ambiguous—the line: "* * * for which he may be prosecuted in a court of any State."

If the Senator is willing to make it absolutely clear that this only applies to an individual convicted in a Federal court——

Mr. D'AMATO. Absolutely. That is the clear intent. It would not bind the State courts. This would be only where the Federal prosecutor takes jurisdiction and prosecutes the case in a Federal court.

Mr. BIDEN. So only if a Federal prosecutor takes it, only if it is done in a Federal court, and only if there is a conviction in the Federal court, does the Senator say this would apply?

Mr. D'AMATO. The sentencing standards would be applied.

Mr. BIDEN. That clarifies a great deal for the Senator from Delaware. I thank the Senator.

Mr. D'AMATO. Mr. President, I believe that, particularly in States such as mine, where the commission of violent crimes with guns constitutes such a great percentage, this would have a very salutory effect in really bringing the criminal justice system into the 20th century, instead of letting the local people saying, "we want help from the Feds. We want your law. This gives us an opportunity to do something meaningful."

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, will the Senator yield for another question?

Mr. D'AMATO. Yes.

Mr. BIDEN. The Senator says this is meant to supplement State prosecution. Does this mean that if the State attorney general says they are going to prosecute the case, the Federal Government cannot come along and say, "No, you cannot prosecute it; we are going to prosecute it"?

Mr. D'AMATO. Well, it would be the same situation that we have now pending with narcotics cases where both have the ability—as a practical matter, most of these cases are brought by local law enforcement. So the U.S. attorney, as a practical matter, is not going to assert jurisdiction where a gun has been used in commission of a crime, unless that local district attorney—in most of these cases the local the district attorney or county attorney as we call them in other jurisdictions—yields jurisdiction.

Let say this: I believe, in most of these instances, you will have cross designations by the local prosecutor, who will have his prosecuting staff cross designated, so that they can try these cases. That is what has been taking place in many narcotics cases.

Mr. BINGAMAN. Can I ask the Senator, will he yield for another question?

Mr. D'AMATO. Certainly.

Mr. BINGAMAN. As I understand what the Senator is now proposing, we have a situation where any time a State crime is committed, a crime is committed that constitutes a crime under State law, if a firearm is used, the Senator from New York has provided that it becomes a Federal crime?

Mr. D'AMATO. If the Feds wish to assert jurisdiction, yes.

Mr. BINGAMAN. That is true with any crime?

Mr. D'AMATO. Yes. The use of a gun constitutes a Federal crime.

Mr. BINGAMAN. The use of a gun in the commission of a State crime makes it a Federal crime?

Mr. D'AMATO. Yes. A felony.

Mr. BINGAMAN. So that all criminal activity covered by State criminal law becomes Federal criminal activity if there is a gun involved?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. And the Senator is saying that as to any of that, any of these criminal acts that occur in States and have traditionally been prosecuted in our State courts, that under this provision we not only have the authority by the Federal Government for the Federal prosecutor to come in and say, "This is also a State crime, and I am going to prosecute it as a Federal crime," but we have now, under the amendment that is pending, a set of mandatory sanctions or mandatory penalties that apply and have to apply if there is a conviction in that case?

Mr. D'AMATO. Correct. But might I add that this same application has taken place as it relates to a shared jurisdiction in cases involving kidnaping, gambling, arson, robbery, bribery, extortion. So this is not new. Obviously, in drugs.

Mr. BINGAMAN. What makes it new is, the Senator is saying, any crime with a gun?

Mr. D'AMATO. It goes to the gravamen of the gun. We say if you use the gun, the gun gives us Federal jurisdiction. And the Senator is right; with guns playing an increasing part, particularly in murders and other crimes, it will significantly give the Federal prosecutor, if he chooses to use it, more jurisdiction to cover more cases.

Mr. BINGAMAN. May I address one other question to the Senator from New York?

The PRESIDING OFFICER. Does the Senator yield for an additional question?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. Mr. President, as I understand it, the language of the bill says that it is intended to supplement, rather than supplant. But, presumably, if a State prosecutor was trying a case under State law against a criminal that did commit a criminal act under State law, using a firearm, there is nothing that we have in the legislation here to prevent the Federal prosecutor from going in and essentially overlaying the Federal penalties and overlying the Federal prosecution on top of that, and essentially preempting the State from imposing its penalties and, instead, imposing the Federal penalties.

Mr. D'AMATO. My good friend is right in saying that the U.S. Attorney could preempt or take jurisdiction in the case. He could. But, as practical matter, I suggest that we have come a long way in recent years with the cooperative effort between State prosecutors and Federal prosecutors. All of the resources are strained, so that we have had a very real cooperative effort. If the Senator is saying, could there be a case where the U.S. attorney would take jurisdiction notwithstanding that the local prosecutor really was not happy, or did not with that to take place, yes, that could be the case.

Mr. BINGAMAN. May I proceed with this same line of questioning, if the Senator will continue to yield?

The PRESIDING OFFICER. Does the Senator continue to yield?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. If the Senator from New York would advise me, and just think of it from the point of view of a State prosecutor: Every time you prosecute a criminal in your State for committing a crime with the use of a firearm, you would have at least the possibility that the Federal prosecutor, U.S.

attorney, would come in and supplant what you had done, would you not?

Mr. D'AMATO. Not really. We say clearly in section 927, it is the intent of Congress that this subsection shall be used to supplement. I think the Senator correctly said supplement—not to supplant. I cannot see this taking place, because it does not take place in drug cases today; it does not take place in a whole variety of cases.

That is not to say in this whole Nation, with all of the prosecutions, that there may not be some pushing and shoving. But to supplement—that is the key, when you say not to supplant in the general.

I do not believe the Attorney General is going to be anxious for his U.S. attorneys, given the limited prosecutorial staff, limited prisons—because, remember, they get prosecuted now.

One of the things I would like to see is a supplement, particularly in urban centers, for prosecution of these cases in the Federal courts where they have no room, and in Federal prisons, because our State prison systems are breaking down.

Mr. BINGAMAN. Mr. President, will the Senator from New York respond to a question as to whether the National District Attorneys Association had a chance to review this legislation and comment on it?

Mr. D'AMATO. They have not.

Mr. BINGAMAN. Have any district attorneys, to the Senator's knowledge, in his State or any State had an opportunity to comment on this?

Mr. D'AMATO. Yes. I have contacted a number of district attorney offices in my State. They have no problem with it, no difficulty. They have cooperated, as I have indicated, with cross-designations in drug cases, et cetera. They really welcome this.

I am not suggesting this might not be contentious before the State District Attorneys Association or the Federal, both on the national level, but I have consulted with a number of district attorneys who have been supportive.

Mr. BINGAMAN. I ask the same question about the National Attorneys General Association.

Mr. D'AMATO. I have not.

Mr. BINGAMAN. They have not been consulted, though?

Mr. D'AMATO. No; I have not spoken to them. They have not.

Let me say this. It is kind of like the situation of a local jurisdiction that has an incredible problem dealing with garbage. They do not want anybody else to handle it, but they cannot handle it.

We have some real problems here locally because of inadequacy of all the problems in the criminal jurisdiction, so there might be some contention on their part not to support this, I agree. But the fact is, I say to the Senator, our people need help. Our people have been beaten down and, as Justice Murphy said, it is the law-abiding citizen who is suffering.

I think we have an opportunity to make a substantial change in that. That is what this legislation is intended to do, to supplement, to help a beleaguered law enforcement system.

Mr. BINGAMAN. I thank the Senator from New York for his response.

Mr. D'AMATO. Mr. President, I yield back any time I might have.

The PRESIDING OFFICER. All time has been yielded back.

The question occurs on agreeing to the amendemnt (No. 387) proposed by the Senator from New York. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—88

Adams	Garn	Moynihan
Akaka	Glenn	Murkowski
Baucus	Gore	Nickles
Bentsen	Graham	Nunn
Biden	Gramm	Packwood
Boren	Grassley	Pell
Bradley	Harkin	Pressler
Breaux	Hatch	Reid
Brown	Hatfield	Riegle
Bryan	Helms	Robb
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Roth
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Coats	Kasten	Sasser
Cochran	Kennedy	Seymour
Conrad	Kerrey	Shelby
Craig	Kerry	Simpson
D'Amato	Kohl	Smith
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wellstone
Durenberger	McCain	Wirth
Exon	McConnell	Wofford
Ford	Mikulski	
Fowler	Mitchell	

NAYS—11

Bingaman	Cranston	Metzenbaum
Bond	Gorton	Rudman
Burns	Heflin	Simon
Cohen	Jeffords	

NOT VOTING—1

Pryor

So the amendment (No. 387) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, once again the Congress will embark on consideration of legislation that purports to "get tough on crime" and there is not a single Senator among us who would shy away from association with that appellation.

And, while we may welcome both the President's and the Congress' return to the domestic side of the national agenda, I want to express my concern that we have allowed both the President and ourselves to define this item on that agenda in far too narrow terms.

We have been swayed by the purportedly easy solutions to very difficult problems. We all want to crack down on crime. But, how have we chosen to do so? For more than a decade, the Federal Government's response has been to fight crime by expansion, by increasing arrests, and prosecutions by the imposition of mandatory and lengthy sentences, by increasing criminal justice personnel, by building more prisons and overcrowding them, and, by increasing the flow of tax dollars to the problem. Expansion of the old approaches, Mr. President, is not enough. I want to get really tough and smart about crime.

As the Judiciary Committee report entitled "Fighting Crime in America: An Agenda for the 1990's" confirms the year 1990 set a national record for murders, a national record for assaults, a national record for rapes, and a national record for robberies. That is the product of just expanding the old ways to show "toughness on crime." Indeed, the year recorded an unprecedented 2 million victims of violent crime in America. Somehow all of our toughness has vaporized, and crime marches on.

The total number of crimes committed in 1990 rose to a new record high as did the rate of violent crime. The Judiciary report also states that "enormous increases in violent crime in the United States are setting records not just at home, but also abroad. We are the most violent and self-destructive Nation on Earth." Yet, we pursue with single-minded dedication the limited and limiting practices of old as deterrents to crime. Our citizens do not feel safer on our streets. They do not feel safer in their homes and communities. These tough approaches have not stopped crime and have not stopped the potential criminal. It is time to get smart and tough.

We have all noted the ironies of the return home of our fighting men and women from facing danger in the Middle East, only to face the greater danger of violent crime in America. We say to one another, how could that be? Why has crime torn loose so violently to endanger the very fabric of our free society. It is tragic. Certainly, no one can disagree that personal safety and security must be returned to the Nation's value system to rival that of national safety and security. We must do more than merely expand crime detection and punishment, if we are to return personal safety to America.

THE ADMINISTRATION PROPOSAL

What are the solutions to this problem that we are now being asked to consider? One thing is abundantly

clear: our efforts on the Federal level are insignificant if they do not convey to the American people that the battle is one that overwhelmingly must be waged and won in the communities and in the neighborhoods of our States. Ninty-five percent of all criminal cases are prosecuted in State courts. It is the State criminal justice systems, the State prosecutors, the State police, the State judges, and the State prisons that bear the greatest burden. Washington's job is to help State and local programs. Our bold and courageous expansion of the list of Federal crimes calling for the death penalty is like throwing a pebble into Lake Pontchartrain. It is true that we have been winding up and thowing the pebble with the flourish and force of Orel Hershiser. This machismo act, however, has had no effect on reducing crime in America. I would say to the President of the United States, Mr. President, we are joining you in fooling the American people if they are convinced that the application of the death penalty to an expanded list of Federal crimes are going to make much of a dent in crime in America.

On the other hand, your crime bill, Mr. President, addresses issues that should frighten every citizen of this country. The administration proposal strikes at the heart of the principles laid down in the Bill of Rights. That is no way to fight crime, Mr. President. Let me just recite a few of a citizen's concerns with this bill:

The administration proposal falsely calls itself a reform bill for the writ of habeas corpus and then proceeds to eliminate the system of Federal collateral review.

The administration proposal would authorize the death penalty for crimes that do not involve murder and crimes that involve unintentional deaths.

The administration proposal would repeal important protections, permitting the death penalty for people with mental retardation and other serious mental disabilities, authorizing the death penalty for crimes in Indian country over the objections of the tribal government, and repealing provisions that require reasonable compensation for competent counsel and experts in capital cases.

The administration proposal would diminish the protections of the fourth amendment. It would expand the exception to the exclusionary rule to cover searches without warrants.

The administration proposal would authorize secret proceedings for the deportation of foreign nationals, departing from the accepted American practice of 200 years, adopting practices that we have uniformly condemned in other countries around the world. We can quickly and forthrightly deport terrorists without resorting to secrecy. America is an open society, Mr. President.

The administration is long on order but short on law. Its proposal is aimed at fooling the American people into thinking that we're really going to be fighting crime in America. These solutions we are asked by the Bush administration to consider are both simplistic and disturbing, and, I might say, insulting to the good sense of Americans.

We cannot wage a war on crime if we adopt an approach that leaves us "for want of a nail," for want of a complete commitment. Much more than a shoe is being lost, the safety and security of our citizens is being forfeited. The administration offers only "sound and fury," the bugle boy can't win the battle if there are no troops to march beside him.

THE BIDEN BILL

As we have learned from history, wars are not won on the battlefield without commitments made by those who also stand and wait. Without the financial commitments to backup the soldiers in the field, to supply them with the tools necessary to do the job, the battle cannot be won. What is absent from the administration bill are some promising solutions like gun control, programs for drug treatment, rehabilitation and prevention, or intermediate sanctions and other measures to deal with the breakdown of the overburdened criminal justice system across the board.

A national response to violent crime and drug trafficking problems will require a comprehensive attack using a wide variety of tools and approaches. I believe the Biden bill provides a well-reasoned starting point for that response.

The local law enforcement community must be aided in their response to violent crime. They are increasingly understaffed, ill equipped, and outgunned. We can do something to help them and the provisions of the Biden bill do just that. Indeed, many of these provisions present sharp contrast to those of the administration. For example, the administration's bill is staggering in its silence on gun control. The Brady bill must be passed. In that regard, our distinguished majority leader has done much to ensure that this will be accomplished by the Senate. His proposal, to be considered as part of our debate on the crime bills before us, combines a waiting period with a mandatory background check and authorizes $40 million to help States update criminal records. My home State of North Carolina has long had a similar provision on the books and it has been readily accepted by our citizens. Without unduly interfering with anyone's right to own firearms, North Carolina's permit system has provided a check against handgun purchases by felons, drug abusers, mental incompetents, and those seeking in quick anger to win an argument. It has not put to disadvantage any law abiding citizens, gun dealers, hunters or NRA members. The Senate Brady bill is a rational policy that will help keep guns out of the wrong hands.

In yet another step, the Biden bill specifically acts to ban assault weapons. Last year, I voted to strike that provision because I did not believe it provided a workable solution. While my hoped for improvements have not been worked out, I am now convinced that this is the best provision that we will get this year. I have had the opportunity to speak with law enforcement people in my State who have told me that this provision is needed even if it does leave unnecessary loopholes.

Another key area of contrast between the bills centers on assistance to State and local law enforcement. In the face of funding reductions, allocation shifts, consolidations, and required expenditures offered in the administration proposal, the more effective response has been offered by provisions in the Biden proposal. The existing Federal commitment is roughly doubled and is to be used to hire, train and equip additional police officers, prosecutors and to provide prisons at the State and local level. Additional funding is also provided for personnel on the Federal level in key agencies such as the DEA, the FBI, the Bureau of Alcohol, Tobacco, and Firearms, as well as for personnel in the U.S. Attorney's Office and the U.S. courts. In sum, the Biden bill boosts Federal aid to $1 billion which is what is needed.

Other measures include:

Expanding the use of joint Federal-State asset forfeiture operations to strike at the underpinnings of drug trafficking rings;

Creating a new $100 million initiative to deal with violent juvenile crimes; and

Easing the State prison crises by establishing regional prisons for Federal and State drug offenders.

Our State and local law enforcement officers need the kind of assistance these programs offer.

Finally, let me make two basic points. Putting more crimes on the death penalty list is a farce. It doesn't do any good, and it doesn't do any harm, but it does permit us to fool ourselves. As the New York Times editorial pointed out in May, let us not be so quick to judgment in capital cases that it can be said the only scandalous thing about capital punishment in America is that "it takes too long to execute people."

Second, I would point out that the protections afforded citizens under the writ of habeas corpus and the exclusionary rule are too precious and too important in our society to be cast out under some ill-conceived notion that this streamlining and reform will reduce crime.

Let us not be in "such desperate haste to succeed and in such desperate

enterprises" [H.D. Thoreau, Walden] that we forget the principles that distinguish and define the rights of individuals and our society. To my colleagues I would say that to forget those principles would be the real scandal.

WHAT WE MUST ALSO ADDRESS

As I indicated earlier, it is important not to lose sight of the fact that the question of what is most likely to reduce crime will not be either satisfied or settled by approaches we adopt this week. Reliance on law enforcement solutions is not enough, and that is the clear record of the last dozen years.

Underlying the entire issue of crime in America are the broader subtexts of our society. Improving the opportunity to thrive and to succeed, improving the opportunity to be educated, improving the opportunity to be free from hunger and from want, to have a home and to be secure. These are the cornerstones for America's war on crime. This is where the battle must be waged and won. These are, of course, the toughest problems to tackle but tackle them we must if we are to honestly say that we are "tough on crime." The evidence is that the administration does not have this kind of courage, this kind of genuine toughness.

Former President Lyndon Johnson urged a national inquiry into civil disorder and said in an address to the Nation 24 years ago:

> The only genuine, long range solution to what has happened lies in an attack—mounted at every level—upon the conditions that breed despair and violence. All of us know what those conditions are: ignorance, discrimination, slums, poverty, disease, not enough jobs. We should attack these conditions—not because we are frightened by conflict, but because we are fired by conscience. We should attack them because there is simply no other way to achieve a decent and orderly society in America.

History will record that America did not follow that advice. These words cannot fail to strike us by the utter failure that characterizes our Nation's progress since that time. A generation has grown up in 24 years and we are in far more dire circumstances now. Consider if you will the simple fact that an American citizen is four times as likely to fall victim to crime in this country today than in 1960. That is what psuedo-toughness has brought us.

The same analysis and the same recommendations could be made today. Let us work to end the hopelessness, the injustice, the poverty, and the destruction that generate violence.

We reach no startling new conclusions here, no bold and previously hidden truths. The ideas are not new. The only thing that will be new are our efforts to change inaction into action. First, and foremost we must act as the Biden bill prescribes to reduce the harms caused by the system of criminal justice itself and to protect the rights of individuals. Second, we must look to the larger context I have described. We must work to reduce the likelihood of entry into the criminal justice system, let alone return to it. In this regard, we cannot dismantle the social services of this Nation and then wonder why people who are desperate and people who are hungry turn to crime. Adults and children across America need to be helped. They need food, and health care, mental health programs, job training, education loans, school lunches, Head Start Programs, Aid to Families with Dependent Children, and programs to curb dropout rates and illiteracy. It is in that vein that I will propose an amendment to the Biden bill that will take the next step. My amendment addresses the roots of crime: the social and economic factors that lead to or contribute to crime. This amendment would require the Commission on Crime and Violence, as found in the Biden bill, to include, as part of its study on models for crime prevention plans, an examination of the basic causes and elements that contribute to crime. It further requests recommendations for specific proposals for both legislative and administrative actions to reduce crime and the elements that contribute to it. I urge my colleagues to act to take this next step.

Ending the epidemic of violence and crime that is gripping our country will take efforts on many fronts. My message to my colleagues today is a simple one: If we are to prevent crime, then we must not perpetuate the roots of crime. This problem cannot be solved any other way.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. SIMON] is to be recognized to offer an amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent Senator GORTON be able to proceed at this time, ahead of Senator SIMON.

The PRESIDING OFFICER. Hearing no objection, it is so ordered. The Chair recognizes the Senator from Washington [Mr. GORTON].

AMENDMENT NO. 386

(Purpose: To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in these chemicals, and for other purposes)

Mr. GORTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for himself, Mr. AKAKA, Mr. BRYAN, Mr. D'AMATO, Mr. DECONCINI, Mr. BIDEN, Mr. BURNS, and Mr. PACKWOOD, proposes an amendment numbered 386.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, add the following new title:

TITLE —PRECURSOR CHEMICALS

SECTION 1. SHORT TITLE.

This title may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 2. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in paragraph (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in paragraph (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in paragraph (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before the word "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included

in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms "broker" or "trader" mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 3. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemical" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears and

(4) in subsection (5) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in the Heading by adding the phrase "or to import or export a list I chemical";

(2) by redesignating subsection (c) as (c)(1) and by adding a new subsection (c)(2) as follows:

"The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 823(h) shall be considered.";

(3) in paragraph (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in paragraph (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and" and by inserting after 827 ", and 830";

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding the following new subsection:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by designating the opening paragraph "(b)(1)", by redesignating paragraphs (1), (2), (3) and (4) as (i), (ii), (iii) and (iv) respectively, by changing the references to these paragraphs in the text which follows them to reflect these new designations and by adding the following new subsection:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import/Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this subchapter and by subchapter I of this chapter.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended in its entirety to read as follows:

"(d) Penalty for importation or exportation

"Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this chapter; or

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported; or

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

"shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(d)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers", if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reorts of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(D)) (as amended by Section 5 above) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or record keeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 971(d)(1) or (2) of this title by misrepresenting either the actual country of final destination of the listed chemical and/

or the actual listed chemical being imported or exported;".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802 (34)) is amended:

(1) by striking the following chemicals:

"(O) D-lysergic acid."

"(U) N-ethylephedrine."

"(W) N-ethylpseudoephedrine.";

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by adding the following chemicals:

"(V) benzaldehyde."

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in the text of redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended in its entirety to read as follows:

"(37) The term "regular importer" means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended:

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act 21 U.S.C. 880(a)(2)) is amended in its entirety to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from such registration under section 822(d) of this title or by regulation of the Attorney General), or a regulated person as defined in section 802(38) of this title, may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by Section 2 above) is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2)

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site."

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of the paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

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

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Pub. L. 101–647) is amended as it amends Section 510(f) of the Controlled Substances Act (21 U.S.C. 881(f)) by striking "this title" and inserting in lieu thereof "this subchapter".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Chapter 117 of Title 42, United States Code, is amended by adding the following section to subchapter II:

"11138. Disclosure of information to the Attorney General Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 11134(b) of this title) under this subchapter or section 1396r–2 of this title will be provided to the Attorney General. The Secretary will transmit to the Attorney General such information which the Attorney General may designate or request which will assist the Drug Enforcement Administration in the enforcement of Title 21, Sections 801 et seq., and will transmit such information related to health care providers which the Attorney General may designate or request which will assist the Federal Bureau of Investigation in the enforcement of Title 18 and Title 21, Chapter 7 and Chapter 9, Subchapter V.".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this Act. Except as otherwise noted, this Act will become effective 120 days after enactment.

Mr. GORTON. Mr. President, the war against drugs, albeit tremendously expensive, is one that we must win, for our sake and for the sake of our children and their children. The costs of losing the war; or even daily battles, are far greater.

Facing, as we are, tight Federal budgets, Congress cannot merely throw endless amounts of money at the problem and hope that it goes away. We simply do not have an endless supply of funds.

In the war on drugs, in this Senator's view, an ounce of prevention is worth a pound of cure. This is especially true for illicit drugs processed or manufacturered right here at home using readily available chemicals that are perfectly legal to purchase. Denying criminals the chemicals they need to manufacture synthetic drugs, heroin, and cocaine is one of the most effective weapons available to governments in the international battle against illicit drugs.

In 1988, Congress took a step in the right direction by passing the Chemical Diversion and Trafficking Act. This law regulated precursor chemicals that otherwise could be diverted to clandestine drug laboratories operating abroad. In the first full year after this law became effective, the number of seizures of clandestine drug labs decreased, reversing a decade-long trend. Nevertheless, the level of seizures remains far too high and these encouraging statistics easily could turn upward once again with the advent of new techniques used to manufacture a powerful and particularly virulent form of methamphetamine nicknamed "ice." It is evident that increased vigilance is necessary.

Pursuant to the 1990 Houston economic summit, the multinational Chemical Action Task Force was established to expand and improve upon existing chemical control laws and accords, most notably, the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. In addition to the G–7 countries, the task force was attended by representatives of the European Community, major chemical producing and trading countries, major illicit drug producing countries, and international narcotics control organizations, all united to help stem the flow of illegal drugs.

Today, I offer on behalf of myself, Senator AKAKA, Senator BRYAN, Sen-

ator D'AMATO, Senator DECONCINI, Senator BIDEN, Senator BURNS, and Senator PACKWOOD an amendment that builds on, and strengthens, the principles underlying our Federal drug laws, and implements several of the recommendations of the task force. Our amendment, the Chemical Control and Environmental Responsibility Act, will provide Federal authorities with the power and flexibility to prevent the diversion of chemicals essential to the illicit drug manufacturing process without unduly restricting legitimate commerce. In fact, it will reduce the burdens currently borne by industry where fewer controls are warranted.

This bipartisan amendment will expand the regulatory jurisdiction of Federal drug laws to include the export from or import to this country of controlled chemicals, as well as of international transactions between third countries arranged by brokers of traders in the United States. Oversight and control of each of these categories of transaction is crucial to effective international drug efforts.

It will close a number of regulatory omissions and exemptions through which controlled chemicals have slipped on their way to the illicit drug industry. For instance, due to a general exemption for chemicals contained in over-the-counter drugs, the controlled chemical, ephedrine, is exempt from regulation in tablet form. Similarly, mixtures currently are exempt from regulation even though some controlled chemicals may be recovered from the mixtures, or the mixtures themselves may be used directly in the illicit production of drugs. This amendment will close these and other loopholes.

The amendment also revises key terminology used in the current chemical control laws to comport with international usage and regulations. In addition, this will serve to sharpen the focus of domestic drug control laws on the overall importance of regulated chemicals to the illicit drug industry, and with it, the types and levels of controls necessary to restrict their illegal use.

Mr. President, this amendment also will impose liability on convicted drug laboratory owners and operators to undue the environmental damages they cause. Currently, those environmental cleanup costs are borne by Federal, State, and local authorities, in other words, by the American taxpayer.

The scourge of drugs is not just an international or national problem. It is not just a State problem or even a big city problem. Rather, it is a problem that can and does exist in many of our backyards, unknown to our friends and neighbors.

Home drug laboratories can be found in any locality, rich or poor, urban or rural, bucolic or blighted. Following rudimentary instructions, amateur scientists produce a variety of street drugs in relative obscurity. Although these drug kitchens often are small, each has the potential of creating a miniature love canal, contaminating buildings and entire neighborhoods with highly toxic chemical wastes.

Many readily available chemicals are used as reagents in the drug manufacturing process. Following their use, these highly toxic reagents usually are disposed in the manner most convenient to the drug cooks. Acids, poisons, corrosive sludge, and flammable liquids are dumped carelessly on the ground, poured into drains, flushed down toilets, and released into our rivers, streams, and lakes. Other toxins evaporate. These toxic byproducts contaminate the ground, air, and water and can endanger human health for miles around.

The harmful effects of these chemicals on the environment were highlighted in testimony given earlier this year before the Senate Judiciary Committee by Paul Pearce of Camas, WA. As a field expert on clandestine drug laboratory investigations and the president of the Clandestine Laboratory Investigations Association [CLIA], Mr. Pearce understands the imperative need to reduce these drug kitchens and the assured environmental hazards they represent.

Mr. President, the war against drugs continues at all levels. Congress should take the lead and demonstrate to the world that this country is serious about combating the scourge of illicit drugs. We have the opportunity to be one step in front of the resourceful drug industry, rather than struggling merely to keep up with it.

Mr. President, seizures of domestic drug laboratories increased 400 percent during the 1980's. Even with increased staffing, our law enforcement officials always have been one step behind the problem. It would be both prudent and more effective to preclude its growth by inhibiting the supply of precursor chemicals from illicit drug production.

In addition, convicted drug laboratory owners and operators should be fully responsible for costs to restore the buildings and contaminated property to strict environmental standards. It is neither fair nor just to force the American taxpayer to bear the burden of their contemptible acts.

I urge adoption of this amendment.

Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD the text of a section-by-section summary.

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

THE CHEMICAL CONTROL AMENDMENTS OF 1991—SECTION-BY-SECTION SUMMARY

Section 1. Title. This Act may be referred to as the "Chemical Control and Environmental Responsibility Act of 1991".

Sec. 2. Definition Amendments. The terms "listed precursor chemical" and "listed essential chemical" are replaced throughout the Federal chemical control laws with the terms "list I chemical" and "list II chemical." This will bring terminology used in Federal chemical control laws into conformity with international usage and regulations. In addition, the focus will shift away from the categorization of chemicals as precursor or essential chemicals, and rather to the overall importance of those chemicals in the illicit manufacture of controlled substances and the types of controls necessary to restrict their illicit use.

The list of chemicals subject to regulation under "list I" of Federal chemical control laws is expanded to include esters of three "list I" chemicals—anthranilic acid, N-acetylanthranilic acid, and phenylacetic acid. These forms of the listed chemicals easily can be used in the illicit manufacture of controlled drugs.

The definition of "regulated person" is expanded to include a broker or trader involved in international transactions. In addition, the definition of "regulated transaction" has been explanded to include any international transaction which does not include the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participated in the transaction. These definition amendments will permit regulation of international transactions between third countries and arranged by a United States broker or trader. Experience has shown that the control of such transactions is crucial to effective international control of trade in listed chemicals.

The authority of the Attorney General to exempt certain categories of transactions from regulation is expanded to include transactions for specific listed chemicals. Under current law, the Attorney General has the authority to exclude general categories and transactions only.

The current chemical control laws also contain a general exemption from regulation for transactions of listed chemicals that may be marketed lawfully under the Federal Food, Drug and Cosmetic Act. The "list I" chemical, ephedrine, often has escaped regulation through this exemption. This section specifically removes all forms of ephedrine from the general exemption, and grants the Attorney General the authority to remove other listed chemicals from the exemption.

Chemical mixtures also are outside general regulation by Federal chemical control laws, even though some listed chemicals may be recovered from such mixtures and some mixtures themselves may be used directly by clandestine laboratories. This section will limit the exemption to those mixtures which the Attorney General has specifically designated as exempt by regulation. This designation will be based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered. In addition, this limitation is necessary for the United States to satisfy its obligations under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Sec. 3. Registration Requirement. This section authorizes the Attorney General to issue rules and regulations, and charge fees, concerning the "registration and control of regulated persons and of regulated transactions." This would extend regulatory jurisdiction to include the export from or import to the United States of listed chemicals, as

well as international transactions between third countries but arranged by brokers or traders located in the United States. Regulated transactions may be conducted only by parties with valid registrations.

The Attorney General has broad authority to deny, revoke or restrict registrations if in the public interest.

Sec. 4. Reporting of Listed Chemical Manufacturing. Domestic manufacturers will be required to report annually about listed chemicals that they produce. The Attorney general will have the authority to determine what information is necessary.

Sec. 5. Reports by Brokers and Traders. This section applies Federal chemical control laws to brokers and traders located in the United States who arrange international transactions between third countries. In general, such brokers and traders will be subject to all of the notifications, reporting, record keeping, and other requirements placed upon exporters of listed chemicals.

Sec. 6. Exemption Authority. This section grants the Attorney General greater flexibility both in the application and in the waiver of regulatory controls on imports and exports of listed chemicals.

The Attorney General may by regulation require that the 15-day advance notice requirement of Federal chemical control laws apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in those countries as "regular customers," if necessary to support effective diversion control programs or required by treaty or other international agreement to which the United States is a party. Current laws do not require the 15-day advance notice period for "regular customers."

The Attorney General also may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If so, exporters of those listed chemicals will be required to either submit reports of individual export transactions or submit periodic reports of the exports as the Attorney General may require.

The Attorney General also may by regulation waive the 15-day advance notice requirement for imports of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If so, importers of such listed chemicals will be required to either submit reports of individual import transactions or submit periodic reports of the imports as the Attorney General may require.

This section also provides for criminal penalties for any person who falsely represents an import or export shipment as qualifying for a waiver of the 15-day advance notice requirements by misrepresenting the actual country of final destination and/or the actual listed chemical being imported or exported.

Sec. 7. Amendments to List I. This section deletes three chemicals—D-lysergic acid, N-ethylephedrine, and N-ethylpseudoephedrine—from the list of "list I" chemicals. It also adds two chemicals to that list—benzaldehyde and nitroethane—and makes some conforming amendments.

Sec. 8. Elimination of Regular Supplier Status and Creation of Regular Importer Status. This section replaces the term "regular supplier" with a new term, "regular importer," which with respect to a specific listed chemical, is defined as "a person who has an established record as an importer of that listed chemical that is reported to the Attorney General." It is more logical, and simpler, to monitor and regulate a domestic importer rather than a supplier.

Sec. 9. Administrative Inspections and Authority. The Attorney General has broad authority to inspect administrative records and business operations of entities working with listed chemicals. However, certain vital records currently are outside of the general inspection authority of the Attorney General. This section corrects that oversight in current law by extending the authority to enter and inspect at the place "where records relating to such activity are maintained."

Sec. 10. Threshold Amounts. This section clarifies that unless the Attorney General establishes threshold amounts, all transactions of listed chemicals are subject to the requirements of the Federal chemical control laws. The Attorney General may change or remove threshold requirements by regulation.

Sec. 11. Management of Listed Chemicals. This section requires that persons who illegally manufacture controlled substances manage all chemicals and their wastes in a manner consistent with EPA standards. Violators will be liable for full cleanup costs, and may be imprisoned for not less than 5 years, or not less than 10 years if the violation was willful. This section also amends the Federal bankruptcy code to provide that amounts assessed pursuant to these provisions may not be discharged in bankruptcy.

Sec. 12. Technical Amendment to the "Crime Control Act of 1990." This is a technical amendment to correct an erroneous designation.

Sec. 13. Attorney General Access to the National Practitioner Data Bank. This section grants the Attorney General complete access to the National Practitioner Data Bank. Such access is necessary to help determine whether it is in the public interest to grant registrations of practitioners to handle controlled substances.

Sec. 14. Regulations and Effective Date. This section provides that implementing regulations shall be issued within 90 days of enactment, and, except as otherwise noted, the amendments will be effective 120 days after enactment.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from Delaware [Mr. BIDEN] and the Senator from Montana [Mr. BURNS] be added as original cosponsors.

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

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. President, I am very pleased to be an original cosponsor of the amendment offered by my friend and colleague from Washington, Senator GORTON. This measure would add additional chemicals to the list of registered precursor chemicals; help reduce the diversion from legal commerce of chemicals used in the production of illicit drugs; provide greater flexibility to law enforcement agencies in the application of regulatory controls on the legitimate international commerce in these chemicals; and, impose penalties for environmental damage associated with illegal drug production.

Mr. President, the Gorton Amendment is consistent with my own legislative efforts to control the diversion of chemicals to the illegal drug trade, particularly as they relate to the production of crystal methamphetamine. I am pleased to note that certain provisions relating to criminal penalties for the sale, distribution, and manufacture of crystal methamphetamine have been included in the committee bill, provisions that I originally offered in my ice amendments to last year's crime legislation. Ice is a growing problem in Hawaii, which has become a port of call for shipments of the drug produced in Asia. If we are able to control the flow of chemicals used to make ice, as this amendment hopes to do, Mr. President, we stand a good chance of stopping the ice epidemic in its tracks.

I want to commend Senator GORTON for his leadership on this matter. A comprehensive, Federal approach to precursor chemicals is sorely needed to supplement local and State laws and regulations against illegal diversion of such chemicals to the drug trade. I especially want to praise him for identifying the environmental consequences of illegal drug production and trade as an important issue in the drug war. By making drug pushers and producers financially as well as criminally liable for the environmental damage they may cause, this amendment serves as a deterrent to such activity. At the very least, we may get drug pushers and manufacturers to pay for the cost of cleaning up the damage they do to our natural inheritance: The air, land, and waters of the Earth.

Mr. President, the impact of illegal drugs on the environment is an issue that we have only begun to explore. The distinguished Chairman of the Judiciary Committee, Senator BIDEN, with typical foresight, recently convened an important hearing on this subject which helped reveal many of the terrible consequences of illicit drug production on the environment. Let me give some examples of the testimony presented at the April 11, 1991, hearing.

One agent from the California Bureau of Narcotics Enforcement testified that at a rental house used as an illegal laboratory, "there was so much benzyl cyanide on the floor of the bedroom that according to the Federal chemist present at the site with me if a baby crawled across the floor he would be dead before he reached the far side of the room."

The same agent also testified that after the discovery of a large methamphetamine laboratory, investigations revealed that "all the waste was being dumped into a stream that led directly to the drinking water of a nearby community."

Another witness was startled to discover that at yet another methamphetamine lab—in this case a mobile home—the suspect had been pouring

chemical waste out of the back of the home for at least a year. The trail of chemicals led downhill to a creek, which drained into other creeks, ending in a well-frequented county park swimming hole.

Mr. President, apparently it is not enough that our children are being tempted to use dangerous drugs; now, we must worry about the serious health consequences facing them from the pollution that illegal drug production causes.

In closing, Mr. President, I want to commend Senator GORTON for his initiative in continuing to raise the issue of precursor drugs. I believe this bipartisan amendment is an important step forward in the ever-expanding war against illegal drugs.

Thank you, Mr. President, I ask unanimous consent that letters in support of precursor chemical legislation from the Hawaii attorney general, the Hawaii Department of Public Safety, and the Honolulu Police Department be printed in the RECORD.

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

STATE OF HAWAII,
Honolulu, HI, June 19, 1991.

Re S. 1142—Regulation of Precursor Chemicals.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Thank-you for sending us a copy of the legislation you are cosponsoring that is designed to regulate chemical precursors to controlled substances. Federal regulation of these chemicals is necessary for at least two reasons. First, a comprehensive approach to this problem is needed to ensure that illegitimate precursor chemical dealers do not evade inconsistent or nonexistent local regulations. Second, no matter how vigilant we may be in stopping these dealers once they arrive here, we are unable to attack them outside our own borders.

As you may know, Hawaii enacted precursor chemicals legislation in 1990. (See Sections 329-61 to -91, *Hawaii Revised Statutes*) Provided that our own law is not weakened by any new federal law, we wholeheartedly endorse your plan to introduce this legislation as an amendment to the Violent Crime Control Act.

Very truly yours,

WARREN PRICE III,
Attorney General.

POLICE DEPARTMENT,
CITY AND COUNTY OF HONOLULU,
Honolulu, HI, June 19, 1991.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Thank you for providing us with a copy of S. 1142, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals. This legislation encompasses a range of issues that supports law enforcement's efforts to eradicate drug sources and drug related crimes.

The proposal to regulate manufacture, distribution, import and export of precursors, and provision of information to authorities of each state of transactions or anticipated transactions of these chemicals woud aid law enforcement in Hawaii. These regulations will enable law enforcement in Hawaii to recognize unusual transactions of these chemicals especially those used to manufacture illegal drugs.

The Honolulu Police Department supports legislation with respect to the regulation of precursor chemicals. Thank you for your continued assistance in representing law enforcement on a national level.

Sincerely,

MICHAEL S. NAKAMURA,
Chief of Police.
HAROLD M. KAWASAKI,
Deputy Chief of Police.

STATE OF HAWAII,
Honolulu, HI, June 20, 1991.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Your proposed legislation that updates existing Federal Legislation regarding precursor chemical regulation throughout the United States is timely and necessary.

The initial Federal Legislation which served to close down the exportation of chemicals and solvents to cocaine processing labs abroad, does not address the problem of specific precursor chemicals used in clandestine laboratories in the United States. Individual states, such as Hawaii, have passed precursor legislation in an effort to provide this regulation, but without an umbrella of Federal Legislation, states must depend on the formation of interstate agreements to exchange information in seeking a solution to this nationwide problem. This process can be slow and cumbersome.

The Department of Public Safety supports your efforts to provide Federal assistance to the states in the notification and regulation of precursor chemical distribution. If we can be of further assistance to you in this effort, please do not hesitate to call me.

Sincerely,

GEORGE W. SUMNER,
Director.

The PRESIDING OFFICER. Is there further debate?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, by inadvertent oversight, the copy of the amendment I sent forward did not have the names of several cosponsors. I ask unanimous consent that Senators AKAKA, BRYAN, D'AMATO, DECONCINI, and PACKWOOD be considered as original cosponsors.

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

Mr. GORTON. Mr. President, I can say that this amendment has been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I was asked to say on behalf of Senator BIDEN that this is an approved amendment which has the support of this side.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 386) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois [Mr. SIMON] for the purpose of offering an amendment on Federal prisoner drug testing.

AMENDMENT NO. 388

(Purpose: To require federal prisoner drug testing)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 388.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 224, strike section 2401, title XXIV and insert the following:

TITLE —FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unalwful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States

Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

Mr. SIMON. Mr. President, I believe this is an amendment that is acceptable on both sides. It is an amendment that tightens up our procedures, as far as Federal prisoners are concerned. I had the experience a few weeks ago of talking to a young man who got on drugs when he was in prison. The unfortunate reality is that prisons too often are places that harbor drugs rather than move us away.

So what this amendment does is it requires Federal parolees to pass a randomly administered urinalysis test for illegal drugs before they are released from prison, and to take two such tests after release from a Federal correctional facility. If for any reason there is a belief that the test was inaccurate, then there can be another test and a more refined test given, either at the request of the prison or at the request of the court.

It also requires Federal probationers on supervised releases to take a drug test within 15 days of release and to submit to two randomly administered tests thereafter.

I know of no opposition to this amendment, and I would appreciate the support of the body.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment proposed by the Senator from Illinois.

The amendment (No. 388) was agreed to.

Mr. SIMON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized now for the purpose of offering an amendment on cash bail.

AMENDMENT NO. 389

(Purpose: To require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for himself and Mr. BIDEN, proposes an amendment numbered 389.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

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

TITLE —BAIL POSTING REPORTING

SEC. 1. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

Mr. SIMON. Mr. President, some weeks ago the mayor of Chicago, Richard Daley, testified before the Senate Judiciary Committee. He is a former prosecuting attorney in Cook County, IL, with a very fine record in that office. He made a suggestion that I thought made a great deal of sense, and I have crafted it into an amendment. I am pleased to have Senator BIDEN as a cosponsor of this amendment.

Mayor Daley suggested that when large amounts of cash are used for bail, the prosecuting authorities be notified and the IRS be notified, and that is precisely what this amendment does. It says if there is $10,000 or more in cash posted for bail or bond, both the Federal and State prosecuting authorities and the Internal Revenue Service should be notified because frequently, if you are talking about large amounts of cash, you are talking about drug money, you are talking about money that has been illegally secured. At least it raises serious questions.

It is a minor amendment but I think an amendment that can help in this area of law enforcement.

Again, I know of no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 389) was agreed to.

Mr. SIMON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 390

(Purpose: To amend title 18 of the United States Code to increase the penalties for trafficking in counterfeit goods and services)

Mr. SIMON. Mr. President, I was asked to offer an amendment for Senator KENNEDY, and I note that he is on the floor right now. It is an amendment that is completely satisfactory to both sides. Let me offer the amendment now on behalf of Senator KENNEDY.

The PRESIDING OFFICER. Under the previous order, the Senator from

New Jersey [Mr. LAUTENBERG] was to be recognized at this point for the purpose of offering an amendment on vehicle theft language, unless he was not on the floor and not prepared to proceed.

Mr. SIMON. Mr. President, I ask unanimous consent—this will take 60 seconds—if there is no objection, to go ahead with this amendment.

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

Mr. SIMON. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for Mr. KENNEDY, proposes an amendment numbered 390.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to trafficking in counterfeit goods and services).".

Mr. KENNEDY. Mr. President, the amendment that I am offering will strengthen protections for intellectual property rights by revising two existing but inadequate Federal statutes. This amendment increases financial and jail penalties for those who traffic in counterfeit goods. It also specifically criminalizes the laundering of proceeds derived from unlawful counterfeiting activities.

I offer this amendment because U.S. companies, including some of our largest producers of athletic footwear, are under siege by counterfeiters. Sophisticated counterfeiting rights manufacture products in Korea and other Pacific rim nations and sell them throughout the world, complete with the trademarked symbols of famous American companies. These illegal sales deprive our firms of tens of millions of dollars in sales each year.

But the negative impact of counterfeiting and trademark infringement extends beyond mere profit calculations. These unlawful actions also result in the loss of jobs for many hardworking citizens, and loss of tax revenues for the Treasury.

Although civil and criminal sanctions exist for trademark holding companies, those remedies are entirely inadequate. All too often, court judgments and penalties are simply factored into the counterfeiters' plans as a cost of doing business. We need penalties that will put these pirates out of business.

I expressed my concern about these matters in a September 1989 letter to U.S. Trade Representative Carla Hills. At that time, I said I hoped the unauthorized production and sale of U.S. products could be stemmed by utilizing existing statutory tools. The U.S. Trade Representative and U.S. Customs Service have been particularly helpful in efforts to eradicate counterfeiting, and I commend their work. Unfortunately, the available statutes are not adequate. When enforcement and prosecution efforts have been undertaken, they have been ineffective.

Counterfeiting rings have persisted, particularly in sporting goods. Often, prosecutors in vital port cities have been unwilling to prosecute strong cases presented to them, due to the press of other business. This amendment will enhance the incentives to attack counterfeiting. At the same time, the cost to the counterfeiters of continuing their illegal activities will rise to a level of meaningful deterrence.

This amendment increases financial penalties. Since fines are often negotiated in exchange for jail time, an increase in available fines will give the Government substantial leeway in any negotiating process. Most important, however, the current fines and prison penalties do not accurately reflect the profits made by counterfeiters. The amended levels will.

In addition, this amendment will specifically criminalize the laundering of proceeds derived from trafficking in counterfeit trademark goods. Counterfeiters attempt to hide the assets they derive from their activities through a variety of methods. They use secret bank accounts, false names, names of relatives, cash and negotiable instruments, and shell corporations to carry out their activities. Their profits are enormous, often running into the millions of dollars. Unless these illegal gains can be seized at or near the time of arrest, they can be forever removed from the jurisdiction of the courts. Without this proposed reform, prosecutors will continue to have a difficult, if not impossible, time in preserving the ill-gotten gains of trademark counterfeiters for court disposition.

In sum, there has been a dramatic loss of revenue to U.S. companies as a result of counterfeiting. The existing criminal penalties have proved ineffective and clearly need revision. This amendment provides a timely, balanced and appropriate incentive for those charged with enforcing the law, and redress for owners of intellectual property rights. I urge its adoption.

Mr. SIMON. This amendment increases the permissible maximum penalty for counterfeiting goods. That is it, very simply. I know of no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 390) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from New Jersey [Mr. LAUTENBERG] for the purpose of proposing an amendment on vehicle theft language.

Mr. LAUTENBERG. I thank the Chair.

AMENDMENT NO. 391

(Purpose: To prevent theft of motor vehicles by establishing a national framework for a program under which law enforcement officials are authorized to stop vehicles operated under specified conditions, such as during certain night hours, when operation of the vehicle under those conditions, according to a certification signed voluntarily by the owner, establishes a reasonable suspicion that the vehicle is being operated unlawfully)

Mr. LAUTENBERG. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 391.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in co-

operation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law environment officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) EXCEPTED PERSONS.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

(B) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

Mr. LAUTENBERG. Mr. President, this amendment is designed to prevent the theft of motor vehicles and to help police officers identify cars that are likely being driven by thieves. It's based on legislation I introduced on June 6, S. 1248, the Motor Vehicle Theft Prevention Act.

The amendment would establish a national framework for what might be described as a consent-to-stop program. It is based on a program operating in various jurisdictions around the country. Under the program, motorists may put decals on their vehicles, indicating that their car is not driven under cer-

tain conditions, such as between the hours of 1 a.m. and 5 a.m. Then, if a police officer sees the car being driven under those conditions, the officer will have a reasonable suspicion that the car is being operated unlawfully, and can stop the car to make appropriate inquiries.

This amendment would direct the Attorney General to establish a uniform design for decals, and uniform consent forms. Administration would be left to the States and localities. And participation would be entirely voluntary on the part of States, localities, and individual vehicle owners.

Mr. President, the problem of auto theft has exploded in recent years. According to the Uniform Crime Report, between 1985 and 1989 motor vehicle theft increased by 42 percent, to over 1.5 million offenses per year. Around the country, there is one motor vehicle theft every 20 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The motor vehicle theft problem is particularly serious in my State of New Jersey. Newark, NJ, has the worst problem in the country, and several other cities are also listed in the top 10. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem, Mr. President. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young; sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Mr. President, beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often take cars on wild joyrides and police chases. The result frequently is death, injury, and destruction of property.

In Newark last year, for example, 10 persons were killed by stolen automobiles. This represents more than a quarter of all auto fatalities in the city. These were innocent bystanders, Mr. President. One victim, Karrima Sewell, was a 10-year-old girl.

Clearly, Mr. President, there is no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is also a crime with a clear interstate dimension. So the Federal Government also has an important role.

Over the past few months, I have been studying the auto theft problem in an effort to develop possible responses. On May 1, I held a forum in Newark, and heard testimony from several law enforcement experts on various proposals to reduce auto theft. The proposal contained in this amendment emerged as one of the most promising approaches. It focuses on prevention.

The bill is based on a concept first developed in New York City in the mid-1980's. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It is a simple, inexpensive, and innovative concept, and by all indications it's been extraordinarily successful.

In New York City, where about 2.7 million vehicles are registered, more than 146,000 were stolen last year. Yet of the more than 71,000 vehicles participating in the consent-to-stop program, only 60 were stolen. In other words, cars without decals were about 65 times more likely to be stolen than cars with decals.

The success of the program in New York has sparked great interest among jurisdictions around the country. Over 50 municipalities have adopted the program, including Trenton, Philadelphia, Houston, St. Louis, St. Paul, and San Diego. The idea has even been adopted by Scotland Yard in London. To the best of my knowledge, the program has been well received and successful wherever it has been adopted.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

My amendment is designed to build on the success of the program by establishing a national framework for its implementation. Under the amendment, the Attorney General would be directed to develop a uniform design or designs for the decals or other identification devices that are used in the program. In addition, uniform consent forms would be established. Administration is left to the States and localities. And participation would be entirely voluntary on the part of States, localities, and vehicle owners.

To participate, States and localities simply agree to use decals and consent forms in conformance with the uniform standards, and to ensure that law enforcement officials are familiar with the conditions under which vehicles may be stopped.

There are several benefits of establishing a national framework for this program. First, it will increase participation in the program, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the program. At the same time, many officials particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across State or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to stop the car. A uniform design will eliminate this problem.

I expect that some may wonder how a program like this can work, when professional auto thieves will be able, with some work, to scratch off the decals. Most officials believe that the program works because time is of the essence to auto thieves. Many cars are stolen in exposed areas. Thieves have explained to authorities that they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials still don't believe the program will work in their jurisdiction, they are entirely free not to participate.

I would also note, Mr. President, that consent-to-stop programs are consistent with the Constitution's fourth amendment protections against unrea-

sonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion that it is being operated unlawfully. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials, the insurance industry, and highway safety advocates. My legislation is supported by the Fraternal Order of Police, the Alliance of American Insurers, and Advocates for Highway and Auto Safety.

In sum. Mr. President, this is an innovative, inexpensive way to actually do something about our Nation's auto theft epidemic. It's entirely voluntary. And, most important, it's not just another empty gesture; this program really works!

I hope my colleagues will support the amendment.

Mr. President, this amendment has been cleared by both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 391) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon [Mr. HATFIELD] is now recognized for the purpose of offering an amendment on missing Alzheimer's disease patients.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 392

(Purpose: To establish a Missing Alzheimer's Disease Patient Alert Program)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon, [Mr. HATFIELD], for himself Mr. PRESSLER, AND Mr. GRASSLEY, proposes an amendment numbered 392.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

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

TITLE XXVIII—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 2801. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an applicatin to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

Mr. HATFIELD. Mr. President, in September of this last year, 1990, a 62-year-old man was diagnosed with Alzheimer's disease and wandered away from his home in Oregon, one of three cases of missing Alzheimer's patients reported in a 3-month period in my State. When he was discovered and identified a month later, it was determined that he had traveled in five States before being returned home.

In January 1991, an 89-year-old Wisconsin man wandered away from his family's home carrying no identification, and he was found 1 week later drowned in a harbor just 6 miles from his home.

One morning in March 1991, a New York police officer called the Alzheimer's Alert Program operated by the New York City chapter of the Alzheimer's Association. Responding to a call to assist an elderly person who had fallen and recognizing the signs of confusion and disorientation, the officer called the 800 number on a bracelet this Alzheimer's victim was wearing, with the inscription of his name and this number and that person was reunited with the family within 2 hours after the disappearance.

Mr. President, some 4 million Americans suffer today from Alzheimer's. This is indeed a problem that reaches extensively throughout our society, to one out of every three families.

Another interesting point is that 80 percent of these Alzheimer's victims are cared for by their families or their spouses at home. They have no way of coping with this problem. As a son of an Alzheimer's victim, I can attest to the fact that it indeed was a great difficulty, emotionally and in every other way, to my mother as she attempted to keep track of my father. He would wander away from home.

Mr. President, I have here an amendment that, in effect, sets up a national network in which we will fund, out of the Appropriations Committee of the Justice Department, $3 million for a 3-year period, $1 million a year, to assist the National Association of Alzheimer's to set up these identities and the ability to find spouses or loved ones, and to be able to have some 6,000 families across the Nation added to or registered in some kind of specific way to locate the missing Alzheimer's patient.

Mr. President, I cannot emphasize too much the importance of assisting through the local police because the local police and the emergency vehicle people are now on the forefront of this task of trying to identify a very difficult problem because even experts have difficulty in dealing with and diagnosing Alzheimer's and being able to help the missing people problem. It is patterned after the missing children's program, and I think therefore we have certainly had experience enough both in the New York chapter and elsewhere to justify this amendment.

Given the nature and relentless progression of Alzheimer's disease and related dementias, each patient is at risk of becoming disoriented and lost. Although no national statistics are currently kept on missing Alzheimer's patients, cities and towns across the country each week report incidents involving lost or missing Alzheimer patients. The New York-based Alzheimer Alert Program alone was involved in 30 incidents of missing patients in a 3-month period during the last year. In most instances, the traditional passive means of identifying the sick or missing person are of little help simply because an Alzheimer patient may not display any outward signs of the disease.

For while people can generally recognize and often do respond to a lost child, few can identify an Alzheimer patient. Local police and public safety programs, emergency personnel, and even most health professionals lack basic training in recognizing the characteristics of an Alzheimer patient as someone who can appear physically well and mentally intact one moment, then become aggressive and resistant the next.

In response to this growing problem, nearly 6,000 families across the Nation have registered their loved ones in programs specifically tailored to help locate missing Alzheimer patients. The largest of the programs, located in New York, provides a safety net of protection and peace of mind for more than 1,000 families in the Northeast region. Yet these opportunities are spotty around the country and many of our families have no existing networks in their States. For instance, one of the families from my own State of Oregon recently registered their father with the New York program. The chances of the patient ever being lost in New York are slim—but the family has been provided with an identification bracelet

with an 800 number which will allow any person who locates him a means of identifying him.

The New York program, which I hope to expand nationally through the amendment I offer today, operates through a carefully integrated system that includes a comprehensive registry of at-risk individuals, an 800 number staffed around-the-clock by specially trained operators, a variety of dementia-specific identifiers, and a fax-based emergency response network that links the program with police departments, hospitals, shelters, ambulance services, and local media. With the help of the local Alzheimer's Association chapters, the program also provides supportive family counseling and training for police and other health and safety personnel.

Using the Alzheimer's Association experience to date, my amendment establishes a national program to protect and locate missing Alzheimer patients. Through a small commitment of Federal funds—$3 million over 3 years—and additional support from interested nonprofit organizations, this program will register and identify patients, using the existing network of Alzheimer's chapters, and local support groups to make families aware of the program. Families will be given identification kits, including a centrally registered ID bracelet, and will be provided with counseling on how to protect the patient and secure the home environment. A national 24-hour 800 line will be available to receive reports of missing and found memory-impaired persons. For those reported missing, the most current patient information available will be faxed within minutes to local emergency networks such as police precincts, ambulance services, shelters, and local media. If the patient is not located within a reasonable period of time, the information will be distributed to a wider circle of police and public safety jurisdictions.

As many of my colleagues are aware, I am the son of an Alzheimer victim. My father was from the third generation of blacksmiths in our family. He spent nearly 40 years of his life as a blacksmith on the Southern Pacific Railroad. He was a man of extraordinary strength because he was a blacksmith in the days of the anvil, bellows, and hammer. Even at the time of his retirement, he was still very conscious of keeping physically fit.

He would jog every morning and at the age of 80, he was still jogging. I will never forget the day when a neighbor called my mother and said, "Your husband is here and has lost his way back home." This was the first indication that something was awry in the life of my father. He insisted, however, in continuing his physical activity of jogging and, more frequently than not, my mother would have to go and pick him up at some neighbor's house where within a block of our home he had lost his way. This would cause sheer terror for my mother and while neither are alive today, I am confident that this little bracelet would have brought them both great peace and confidence.

I cannot let this opportunity pass without expressing my gratitude to the law enforcement community for the support they have shown for this program. In New York, an officer stated that he wished all Alzheimer victims had alert bracelets and noted that the program is probably the "greatest thing that could happen for these people."

It is my sincere hope, Mr. President, that the Senate will adopt my amendment and will provide the growing numbers of this Nation's Alzheimer patients and their families a tool in battling this devastating disease.

I ask unanimous consent that three news articles from the Gannett Westchester Newspapers be printed in the RECORD.

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

[From the Gannett Westchester Newspapers, Mar. 23, 1991]

A HELPING HAND ON ALZHEIMER'S

The inexpensive piece of silver jewelry 83-year-old Francoise Com wore around her right wrist proved to be priceless. The Yonkers woman's Alzheimer's Alert Bracelet probably saved her life.

The Alzheimer's Association in New York City, which began distributing the bracelets last November to help victims of the memory-impairing disease find their way home, says Com was the first person in the nation saved by the bracelet. She won't be the last.

That's if relatives and friends of Alzheimer's sufferers act wisely and contact the association to purchase a bracelet. For $10, the purchaser gets a bracelet, which lists an Alzheimer patient's name and the toll-free telephone number of the association's Alzheimer's registry. The registry can provide the patient's name, address, age, photograph and medical history.

Credit people like television science reporter Dr. Frank Field and hotel magnate Leona Helmsley for launching the program. As a result, when Com was spotted wandering around a southwest Yonkers neighborhood, police didn't have to go through the usual time-consuming routine of checking missing persons reports and contacting local media to locate a relative. Sometimes this process proves successful after a couple of hours. Other times it can take weeks or months.

So far, only 13 of the estimated 12,000 people in Westchester who suffer from Alzheimer's have the bracelets. Those who know someone who'd be helped by the bracelets in Westchester may call 428-1919.

[From the Gannett Westchester Newspapers, Mar. 21, 1991]

POLICE PRAISE BRACELETS AS TIME SAVERS

(By Paul Kirby and Alison Gendar)

Yonkers Police Investigator William O'Brien thinks all Alzheimer's victims should wear an alert bracelet.

It would make his job—dealing with missing people—a lot easier.

"It's like getting a tattoo," he said. "With the bracelet, it makes identification easy. It's probably the greatest thing that could happen for these people."

O'Brien guessed that he gets tied up at least five times a year with an Alzheimer's victim who has no identification and can't remember where home is.

In every case, his task is time consuming.

He has to check missing-persons reports to look for matching descriptions. Then he has to broadcast to regional departments a description of the person he has found. Then, he waits.

It's a bit easier if the Alzheimer's victim lives in Yonkers or Mount Vernon, but the person could easily be from anywhere.

Carolina Edwards, a spokeswoman for the Alzheimer's Association of New York City, said it is not uncommon for victims "when they are in a wandering phase, to get on a Greyhound bus or hop a plane."

Detective Sgt. Michael Carpentieri of the Mount Vernon Police Department said the bracelets would be a tremendous help to police.

"When these people are found, sometimes they don't even know their names," he said. "It's a giant mystery. The bracelets would increase our ability to find their homes by 100 percent."

"It's an excellent idea," said Mount Vernon Deputy Police Commissioner John DeLeo.

[From the Gannett Westchester Newspapers, Mar. 21, 1991]

ID BRACELET SAVES WOMAN WITH ALZHEIMER'S DISEASE

(By Paul Kirby)

Tiny, gray-haired Francoise Com was walking the seedy streets of southwest Yonkers on Friday, but she didn't know it.

In fact, she didn't know where she was or how she got there.

Com, 83, has Alzheimer's disease.

But her story had a happy ending because of a silver bracelet she had around her wrist. The bracelet is a new product of the Alzheimer's Alert Program, and according to its parent group, the Alzheimer's Association in New York City, Com was the first person in America to be saved by it.

"It's wonderful how this worked," said Jed Levine, a spokesman for the association. "Mrs. Com was home within an hour instead of sitting, confused and alone, in a police station."

Helped by a $300,000 donation from Leona Helmsley, the Alert Program began distributing the bracelets in November to help Alzheimer's victims who sometimes wander outside in a daze. Thus far, 800 bracelets have been given out.

Thirteen of the estimated 12,000 people in Westchester who suffer from the disease have gotten the bracelets. Barbara Olivier, executive director of the Westchester Chapter of the Alzheimer's Association, said another 100 Westchester residents have asked for applications.

The bracelets contain on one side an Alzheimer's logo and on the other the name of the person wearing it and the telephone number, 1-800-733-9596. Someone who calls the number and gives the name can get information about where the person lives.

In Com's case, police received a report about noon of a woman who had fallen on Hawthorne Avenue. When Police Officers Frank Horan and Patti Greene arrived, they found she had money, but no identification in her possession.

"She was really confused. She had no idea where she was or how she got there," Greene said.

But Horan saw the silver bracelet and telephoned the 800 number when they took Com to the city's 3rd Precinct.

"She really didn't want to be there," Horan said. "But we had no idea where she was from."

Fifteen minutes later, the officers got a call from Levine. A computer check had been run, and Levine gave the officers Com's address and the names of her caretaker and a neighbor. They were also given the telephone number of her daughter.

It was then a simple matter to get Com back to her Yonkers home.

"We could quickly decipher where she was from and get her back to safety far more quickly than if she didn't have the bracelet," Greene said.

Yesterday, Com, Greene and Horan were reunited in a happy celebration with WCBS-TV science correspondent Dr. Frank Field, who was instrumental in getting the bracelet program off the ground. Field taped Com's story for airing on television and said he expected the segment would be shown today to show how families of Alzheimer's victims can help themselves.

"I get two or three calls a week from families who want to run Alzheimer's victims on television," Field said. "These people are just wandering around. Meanwhile, their families are going crazy."

Com's daughter, Jacqueline Francois, 55, of Woodstock, said her mother had wandered off four times recently. Once, she was found on a Manhattan street at 3 a.m.

Francois said the bracelet gives her a sense of security.

"It was the perfect answer for my mother," she said.

Mr. GRASSLEY. Mr. President, I rise for 2½ minutes to address the issue of the Hatfield amendment.

Mr. President, I would like to add my word of support for this amendment. The grant program which this amendment would establish would help set up a system for locating Alzheimer's disease victims who have wandered away from those who are caring for them. They are cared for by their families in the overwhelming number of cases.

I am glad to be a cosponsor of the Hatfield amendment which attempts to help with this problem.

As most of my colleagues know, Alzheimer's disease progressively robs the patient of his or her cognizant faculties and at some point, as the disease progresses, in extreme cases its victims become restless and agitated. Of course, one of the symptoms is they are given to wandering and not knowing how to get home. Those of us who have visited Alzheimer's disease day care centers or nursing homes know that these facilities take very special precautions to guard against the possibility that those in the care of these special facilities will leave through unsecured doors and wander away.

However, as I stated before, in the vast majority of cases, and it could be as high as 80 percent as I understand it, Alzheimer's disease victims are cared for in their homes or at the homes of relatives. In such cases, it is more difficult to guard against the possibility that the victim will wander off into the community. Of course, once they do wander off, it is no simple matter to find them. They do not necessarily appear any different from anyone else. If it becomes apparent that they need help, they are probably not able to communicate what their problem is or where they belong. They will almost always become lost. They may even become injured, and perhaps all this found out after a period of days or weeks have passed.

The fear and anxiety that family members who are caring for an Alzheimer's disease victim at home must bear are obviously considerable, especially so if the family member with the disease wanders off.

Mr. President, I think the program that Senator HATFIELD's amendment would establish probably the first proactive Federal program designed to help locate missing Alzheimer's disease victims.

Senator METZENBAUM and I did include, at Senator METZENBAUM's urging, an education program for safety and transportation personnel in legislation that we introduced in the 99th Congress. That legislation became title 9 of Public Law 99-660, and we hope to reauthorize it this year, including that education component.

In any case, the purpose of that education program in that legislation was to help educate public safety personnel and public transportation personnel about the victims of dementia and how to recognize them and how to help them.

The amendment that we are now considering goes further than what we did in Public Law 99-660 in it would help set up a central patient registry with which patients could register. It would also make it possible to alert local emergency networks when somebody with Alzheimer's disease has become lost.

Mr. President, I think the amendment offered by Senator HATFIELD is an imaginative way to at least start a program to deal with what is a very difficult problem. So I take this opportunity to applaud my colleagues' initiative.

I yield the floor.

Mr. HATFIELD. Mr. President, I believe, as I say, the amendment has been cleared on both sides. I urge its adoption.

Mr. BIDEN. Mr. President, it has been cleared on this side. Let me, before we vote on it, just say I think the Senator from Oregon has made a very positive contribution here.

This is a case where the use of the capability that is available for American law enforcement can be used without any interference in their ability to function and do their duties, to expand the underlying function—and that is to protect human life.

I compliment my friend from Oregon. We accept the amendment.

Mr. HATFIELD. Mr. President, I thank the chairman of the Judiciary Committee for his kind words.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 392) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senator from Nebraska [Mr. EXON] be recognized to offer his amendment subject to the conditions of the previous agreement.

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

Mr. EXON. I thank the Chair. I thank my colleague from Delaware.

AMENDMENT NO. 393

(Purpose: To establish drug free zones at truck stops and highway rest areas)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. HOLLINGS, KASTEN, and DANFORTH, proposes an amendment numbered 393.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 186, immediately after line 24, insert the following new subtitle:

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstop and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or

possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

Mr. EXON. Mr. President, the amendment that I have just offered was offered on behalf of myself; on behalf of Senator HOLLINGS, the chairman of the Commerce Committee; on behalf of the Senator from Wisconsin, the chairman of the Surface Transportation Subcommittee; and also Senator DANFORTH, the ranking Republican on the Commerce Committee.

This amendment, offered by myself with the original cosponsors that I have just mentioned, has to do with drug-free truckstops. It is fully appropriate on the crime package. The amendment on the drug-free truckstops is an amendment that has already passed the Senate as part of the highway bill. This amendment was also passed last year by the Senate but was dropped in conference.

In attaching this amendment to the crime bill, it is my hope that we can get beyond the jurisdictional disputes and it will soon become law.

Mr. President, we have a serious threat to the safety of the millions of travelers on our Nation's highways. The threat is the use of illegal drugs by our Nation's truckdrivers. In 1989, in a survey of 1,300 truckdrivers conducted by the Regular Common Carriers Conference of the ATA, the average response indicated that over one-third of all truckdrivers at one time or another drive under the influence, to some extent at least, of illegal narcotics.

In another study conducted by the National Transportation Safety Board, it was found that the use of drugs or alcohol was a major factor in 26 of the 189 accidents that they studied.

It is imperative that the Congress address this situation. Nearly every American traveler on our Nation's highways and their safety should be a primary concern of all.

In order to combat the spread of drugs in the motor carrier industry, this amendment creates drug-free zones around truckstops, and doubles the penalty for those persons convicted of selling drugs within 1,000 feet of truckstops. This amendment is modeled after the language from the Omnibus Drug Initiative Act of 1988, which established similar drug-free zones around our Nation's schools.

The establishment of the drug-free truckstop will send a strong signal to our Nation's motor carrier industry that the safety of our Nation's motorists is paramount, and that unnecessary risks to that safety will not be tolerated.

Mr. President, I thank the cosponsors of this measure. We have thoroughly reviewed it in the Surface Transportation Subcommittee that I chair and the Commerce Committee as a whole.

I thank you, Mr. President.

I understand the measure has been cleared on both sides. I hope, Mr. President, that we now can proceed with the adoption of the amendment, I assume by a voice vote.

Mr. HOLLINGS. Mr. President, I rise today in support of this amendment to the crime bill which calls for the establishment of drug-free zones for truckstops and roadside rest areas. The amendment establishes a minimum penalty and increases the maximum penalty levels for persons convicted of distributing or possessing with intent to distribute illegal drugs within 1,000 feet of truckstops.

Mr. President, this amendment is an attempt to stem the tide of drug supplies to truckdrivers. Truckstops and rest areas are the easiest locations at which to distribute drugs. Such distribution is well documented and the consequences are, unfortunately, all too familiar. The problem of drug use by truckers simply reflects the larger societal problem. The difference, however, is that a truckdriver under the influence of drugs is often operating an 80,000 pound truck. This represents an enormous threat not only to the safety of the driver but also to the lives of the other motorists on the highway. We have seen the positive impacts of such drug-free zones around schools and we hope this program meets with the same success.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 393) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. EXON. I thank the Chair. I thank my friend and colleague from Iowa.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire [Mr. RUDMAN] is to be recognized for the purpose of proposing an amendment on multijurisdictional drug task forces.

AMENDMENT NO. 394

(Purpose: To exempt multijurisdictional drug task forces from the 4-year grant limitation for antidrug abuse grants)

Mr. RUDMAN. Mr. President, the amendment I am about to offer has in

fact been cleared on both sides. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes amendment numbered 394.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, after line 22, add the following:

SEC. 104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754)(f)), is amended to delete the first word and insert the following:

"Except for grants awarded to state and local governments for the purpose of participating in multijurisdictional drug task forces, no".

Mr. RUDMAN. Mr. President, I have been advised by the staff of the distinguished Senator from Delaware, the chairman of the Judiciary Committee, that this amendment has been cleared on both sides. Thus, I will proceed, even though he is not on the floor and is attending a meeting.

Mr. President, I urge the Senate to act favorably on the amendment I am offering today to ensure the continued viability of State multijurisdictional drug task forces. Under current law, State antidrug abuse grants are subject to a grant limitation prohibiting the utilization of Federal money for any one project for more than 4 years. While this grant limitation may make sense in terms of seed money for projects undertaken by a State or single municipality or jurisdiction, it does not make sense for multijurisdictional projects. In the case of such multijurisdictional projects, it is not reasonable to expect that any one participant can coordinate the funding for the benefit of multiple participants.

Mr. President, these multijurisdictional drug task forces have proven to be one of the most successful tools in the war against drugs. This is particularly true in small rural States such as New Hampshire. Their structure promotes cooperation, coordination and confidence among a variety of governmental units and encourages broad involvement at all levels of law enforcement which might otherwise not be possible or practical. Without this amendment, the continued success of these task forces may be in jeopardy.

Mr. President, let me say that this amendment is not intended to favor multijurisdictional drug task forces over other worthy recipients of the State antidrug abuse grants. Rather, it recognizes the unique conditions which apply to multijurisdictional projects, and seeks to ensure their continued viability. I urge my colleagues to support this amendment.

Mr. SIMON. Mr. President, the Senate today will agree to an amendment offered by my colleague from New Hampshire that provides for a waiver of the 4-year time limit on drug grants provided by the Bureau of Justice assistance for the multijurisdictional task forces. While I will not object to this amendment, I want to make clear my strong support for the distribution of antidrug grants to the local law enforcement community in addition to the multijurisdictional task forces. The purpose of the amendment as I understand it is simply to ensure that multijurisdictional task forces which provide a valuable service to fighting the drug problem, continue beyond the initial 4 years. However, the purpose is not to diminish the importance of the local law enforcement community who are not part of these task forces. It is my intention that these local law enforcement officials will also benefit from the Federal funding and that his provision will not be read in any way to diminish their significance.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 394) was agreed to.

Mr. RUDMAN. Mr. President, I move the reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RUDMAN. 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. EXON. 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. EXON. Mr. President, I ask unanimous consent that upon disposition of the Specter amendment, the Senate proceed to the following amendments; that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer an amendment; and the no amendment to the amendment or to the language proposed be stricken be in order; and that during the pendency of the agreement on the listed amendments, no motion to recommit be in order.

The amendments that I reference in order, as I have requested in the unanimous-consent agreement, are as follows: a Biden amendment on the National Crime Commission; Heflin amendment on restitution; Wirth amendment on campus crime; Thurmond amendment on murder of U.S. nationals; Bradley amendment on drug dealing in public housing; Seymour amendment on battered women; Seymour amendment on drug paraphernalia; Hatch amendment on software privacy.

I have just been advised that there will be two more amendments, which would be the last two to be considered in this order; that is, the Specter amendment on courthouse in Lancaster, PA, and another amendment regarding U.S. attorneys offices.

The PRESIDING OFFICER. Is there obection? Hearing none, it is so ordered.

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

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

The bill clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I am prepared to proceed now with two amendments which have been agreed to by the chairman of the committee and the ranking Republican member. There are discussions which are underway on other important parts of this bill.

I am at a slight loss at proceeding without the managers on the floor. Perhaps we ought to wait just a few minutes to give Senator BIDEN and Senator THURMOND an opportunity to return before proceeding.

The PRESIDING OFFICER. Regular order is the Specter amendment No. 381, the Chair would inform the Senator from Pennsylvania.

The Senator from Pennsylvania has 13 minutes remaining and the Senator from Delaware has 4 minutes remaining.

Mr. SPECTER. Mr. President, at this time, I ask unanimous consent to set aside my amendment, which would recur under the regular order, for purposes of proceeding with these two agreed-to amendments.

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

AMENDMENT NO. 395

(Purpose: To authorize funds for construction of a U.S. Attorneys office in Philadelphia, Pennsylvania)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania, [Mr. SPECTER] proposes an amendment numbered 395.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A U.S. ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the U.S. Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: *Provided further*, That the site selected for the Philadelphia U.S. Attorney Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

Mr. SPECTER. Mr. President, I have discussed this personally with Senator BIDEN and personally with Senator THURMOND. Both are in agreement, as is the Department of Justice.

The essence of this amendment is to provide an authorization for construction of facilities for the U.S. attorney in collaboration with a jail which has already been authorized and appropriated in the city of Philadelphia.

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

The amendment (No. 395) was agreed to.

AMENDMENT NO. 396

(Purpose: To provide that the U.S. District Court for the Eastern District of Pennsylvania shall also sit in Lancaster, PA)

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

The PRESIDING OFFICER. The Clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 396.

At the appropriate place, insert the following Section:

SEC. . COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

Mr. SPECTER. Mr. President, the essence of this amendment is to authorize a courtroom for Lancaster, PA. This follows a pattern of satellite courtrooms in Johnstown, PA., in Reading, Allentown, Easton—many other communities. This, too, has been taken up on both sides of the aisle. There is no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 396) was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent a statement appear concerning the establishment of this Federal court station of Lancaster, which sets forth the statistical data in support of the satellite court.

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

STUDY: ESTABLISHMENT OF FEDERAL COURT STATION LANCASTER, PA

THE CASE FOR A FEDERAL STATION IN LANCASTER

Lancaster is one of ten counties in the Eastern District of Pennsylvania, the other nine being (in alphabetical order) Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, Philadelphia and Schuylkill. (A map showing the alignment of the ten counties is attached as Exhibit "A."). The headquarters for the district is in Philadelphia, but there are "satellite" stations in Reading (Berks County), Allentown (Lehigh County) and Easton (Northampton County). There are two stations in Reading, one each for Judges Troutman and Huyett and one station each in Allentown and Easton, for Judges Cahn and Van Antwerpen respectively.

Lancaster is one of the five so-called "northern" or "upper" counties in the district, along with Berks, Schuylkill, Lehigh and Northampton. Cases filed from Lancaster and the other four northern counties go into a separate "wheel" for assignment from other cases filed in the district. Cases from the five Philadelphia area counties (Bucks, Philadelphia, Chester, Montgomery and Delaware) to into the district's main wheel for assignment among all of the judges on the court. Cases from the northern "wheel" are assigned only to one of the "northern" county judges, i.e., Judges Troutman, Huyett, Cahn or Van Antwerpen.

The satellite stations were created for the convenience of litigants, attorneys, witnesses and jurors, as well as the judges who preside over the stations and who live either in or near the county of the station.

For the same reasons that a station is appropriate for Berks, Lehigh and Northampton Counties, a station has now become appropriate for Lancaster.

CASES FILED

The number of civil cases filed by Lancaster County residents is now greater than the number filed by residents of either Schuylkill, Lehigh or Northampton Counties, and is only slightly less than the number filed from Berks County. Records from the United States District Court for the Eastern District of Pennsylvania show the following filings per year from Lancaster and the three "northern" counties (Berks, Lehigh and Northampton) which have satellite stations. A summary of those records is shown below:

	1987	1988	1999
Lancaster	101	151	174
Berks	175	211	198
Lehigh	148	168	156
Northampton	87	97	118

As the above shows, the number of civil cases filed by Lancaster County citizens has increased per year at a dramatically greater rate than the number filed from Berks, Lehigh or Northampton Counties. The percentage breakdown on this increase between 1987 and 1989 is as follows:

	1987	1989	Percent increase
Lancaster	101	174	73
Berks	175	198	13
Lehigh	148	156	5
Northampton	87	118	35

POPULATION

The above trend in case filings should continue, given the population trends of Lancaster and the other "northern" counties. Lancaster is now the largest of the five "northern" counties in population, as the following data from the 1988 total population estimates of the Census Bureau show:

Lancaster	414,100
Berks	328,100
Lehigh	288,700
Northampton	243,600
Schuylkill	154,100

Lancaster is also the fastest growing county in the Eastern District, and the population difference between Lancaster on the one hand and the other "northern" counties on the other can be expected to increase in the immediate future. The Census Bureau data shows the following growth in population from 1980 to 1988 for Lancaster and the other four "northern" counties:

	1980	1988	Change	1980–88 (percent)
Lancaster	362346	414100	51754	14.3
Berks	312509	329100	1659	5.3
Lehigh	272349	288700	16351	6.0
Northampton	225418	243600	18182	8.1
Schuylkill	160630	154100	−6530	−4.1

As the Census Bureau data shows, Lancaster County had the second highest population gain of all counties in Pennsylvania, behind only Bucks, in the period from 1980 to 1987.

ATTORNEYS

Lancaster County now has more attorneys than any of the other "northern" counties, and thus more attorneys from the other northern counties who either have cases in the Eastern District already or who may be expected to have such in the future. The bar associations of the five northern counties had the following memberships as of March 2, 1990:

Lancaster	508
Berks	480
Lehigh	493
Northampton	388
Schuylkill	175

CONVENIENCE

A station in Lancaster would ease considerably the inconvenience for Lancaster litigants, attorneys, and jurors that exists under the current system of case assignments.

As noted above, Lancaster cases are currently assigned to Judges Troutman or Huyett, both of whom sit in Reading, or to Judges Cahn or Van Antwerpen, who sit in Allentown and Easton respectively. Judges Troutman and Huyett have senior status and are assigned only half the normal caseload. Judges Cahn and Van Antwerpen carry full caseloads. Because of this allocation, Lancaster cases have twice the likelihood of assignment to Allentown or Easton than to Reading, as the following table shows (1.0 refers to a full caseload and .5 to half a caseload):

Reading-Troutman	.5
Reading-Huyett	.5
Allentown-Cahn	1.0
Eastern-Van Antwerpen	1.0
	3.0

While Reading is a convenient station (approximately 45 minutes by car) for Lancaster litigants, attorneys, witnesses and jurors, Allentown is 67 miles from Lancaster and takes approximately two hours to drive. Easton is 83 miles from Lancaster and takes approximately two-and-a-half hours. A proceeding in Allentown or Easton, however brief the proceeding might be, requires a commitment of all or the better part of a

working day for Lancaster litigants, attorneys and witnesses.

If Lancaster County was assigned a federal station, however, and if the current method of assignment for "northern" county cases remained the same, Lancaster cases would have a 25 percent chance of assignment to Lancaster, with no travel at all required; a 25 percent change of assignment to Reading, travel to which is convenient; and only a 50 percent change of assignment to the less convenient stations in Allentown or Easton, compared with the present two-thirds (66.7%) chance of assignment to either of these stations. With a judge taking a full caseload in Lancaster, the probability of assignment for cases from Lancaster (or any of the northern counties) would be the following:

Lancaster	1.0
Reading (Troutman)	.5
Reading (Huyett)	.5
Allentown	1.0
Easton	1.0
	4.0

A federal station in Lancaster would also be as conventient as Allentown, and more convenient than Easton, for attorneys, litigants and jurors from Berks County. Lancaster is 30 miles from Reading, the county seat of Berks County, while Reading is 35 miles from Allentown and 45 miles from Easton.

Lancaster would also be more convenient for jurors from Philadelphia County than Reading, Allentown or Easton because Lancaster is accessible from Philadephia by train. Lancaster has daily train service to and from Philadelphia, which neither Reading, Allentown nor Easton has. At present, jurors from Philadelphia have no option to use the train when they are selected for a trail in one of the "northern" stations. If a station were established in Lancaster, jurors from Philadelphia would have a one-in-one four chance of having train service available if they are selected for a trail in one of the "northern" stations.

COST

Lancaster has the unanimous support of all sectors of the community for a federal station, and has facilities for a federal station immediately available. Lancaster County officials have committed to making Courtroom "A" of the present Lancaster County Courthouse available for a federal station, and to providing the adjacent space necessary for judicial chambers. The establishment of a station in Lancaster could thus be made at much less the cost than establishing a station might otherwise require.

CONCLUSION

No matter which criterion one uses, whether it is convenience to judges, litigants, attorneys or jurors, Lancaster County deserves a station as much as Berks, Lehigh or Northhampton Counties. If a station is appropriate for those counties, it is equally appropriate for Lancaster. A station in Lancaster would improve substantially both the availability and convenience of the federal courts for Lancaster citizens, with no detriment to citizens in the balance of the Eastern District or to the court as a whole.

AMENDMENT NO. 381, AS MODIFIED

Mr. SPECTER. Mr. President, I am now prepared to proceed to the amendment, where regular order calls for consideration. At this time, Mr. President, I ask unanimous consent to submit a modification to that amendment.

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

Mr. METZENBAUM. Reserving the right to object and I have no objection, I see the floor is not covered on this side. Has the Senator from Pennsylvania cleared the modification with the manager of the bill?

Mr. SPECTER. I have discussed it with Senator BIDEN and Senator THURMOND and neither one has raised any objection.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will send his modification to the desk.

The amendment, as modified, is as follows:

In section of the bill, in proposed section 2262 of title 28, United States Code, captioned "Limitation periods for determining petitions," strike subparagraphs (1) and (2) of paragraph (a) and paragraphs (b), (c), and (d) and insert the following in lieu thereof:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of such application unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

Mr. WIRTH. Will the Senator yield for a question?

Mr. SPECTER. I do.

Mr. WIRTH. I have an amendment which has been cleared on both sides. I was wondering if the amendment the Senator is now offering is one that is going to be lengthy and will require a vote, or is it going to be dispensed with quite rapidly?

Mr. SPECTER. The amendment is going to be not very lengthy but will require a vote and will consume some time.

I note in the voice of the Senator from Colorado an interest in perhaps setting this aside?

Mr. WIRTH. I was hoping we might do that in order to agree to an amendment cleared on both sides that could be handled quite rapidly.

Mr. SPECTER. I am happy to accommodate a colleague. Perhaps we can get Senator BIDEN here on the floor and perhaps we should proceed.

I ask unanimous consent to set aside my amendment so the Senator from Colorado can proceed briefly with an amendment which he represents has been agreed to on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado.

Mr. WIRTH. I thank the distinguished senior Senator from Pennsylvania for his usual courtesy and accommodation for allowing me to offer an amendment which has been cleared on both sides.

AMENDMENT NO. 397

(Purpose: To amend the General Education Provisions Act to allow educational agencies and institutions to disclose campus police records)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 397.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records of a law enforcement units of an educational agency or institution that are required by State law to be made available to the public;".

Mr. WIRTH. Mr. President, the purpose of this amendment is to clear up what is a quite anomalous situation and conflict which has occurred among laws in some 10 or 12 States, not only to my State of Colorado but in Virginia, Missouri, Arizona, Iowa, Kentucky, Louisiana, North Carolina, and Pennsylvania. In each of these States there is a requirement that any criminal activity, and any arrests that have occurred at a State level, a community level, and on university campuses, be made available to the public.

That is an open record relating to any criminal activity. That would seem to make very good sense. And those are laws that are in the States that I have just listed.

On the other hand, there is somewhat of a glitch in the Federal law related to this so-called Family Educational Rights and Privacy Act or FERPA. That law says that if a campus discloses information publicly, related to a student's records, that campus can be cut off from all Federal funds. So institutions of higher education in my State and in all of these other States, including the State of the distinguished Senator from Pennsylvania, are caught between a rock and a hard place.

Colorado State University, for example, to comply with the State law, provided the open records on students who had been arrested on that campus. The Federal Government came in and said,

You cannot do that under FERPA. If you do that, you are going to lose; you will be cut off under the requirements of the law. You are going to be cut off from all Federal support.

This amendment would allow campus police units to release the information that States have determined plays a role in protecting the public safety and could do so without violating the Federal law.

This in no way affects students' privacy with other records, performance evaluations, test scores, letters of recommendation and things like this. This relates only to public safety issues and will potentially, I think, help us get a handle on a growing amount of campus crime.

To reiterate, this amendment will help to ensure public safety by allowing students and campus communities to know about criminal activity at their schools. Campus crime is a growing problem that not only threatens the safety of that community, but hinders the education of our students.

Many States in this country have open record laws—which means the public has access to police records and can find out who has been arrested and for what crimes. This is the kind of access that can promote community involvement and help to bring peace to college campuses.

A glitch in Federal statute, however, has posed a difficult problem for universities in States that have open record laws. For example, in compliance with my State's open book law, in the past Colorado State University routinely released the names of students who have been charged with a crime. However, the university was notified by the Department of Education that all its Federal funding would be cut unless it complied with the Federal Family Educational Rights and Privacy Act [FERPA]—which prohibits the release of this information as a part of a student's education records.

The obvious dilemma faced by universities is determining with which law they should comply—State or Federal. If they do comply with State law, they are severely punished by having all Federal funding for the institution removed. I think it is safe to say that no school wishes that upon itself.

My amendment would allow campus police units to release the information that States have determined play a role in protecting the public safety without violating Federal law. It in no way affects students' privacy with other university records and I believe enhances the safety of our students.

Mr. President, I ask unanimous consent to have printed in the RECORD editorials from the Greeley Tribune, the Denver Post, and another article from the Greeley Tribune on this particular problem.

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

[From the Greeley (CO) Tribune, May 16, 1991]

U.S. EDUCATION DEPARTMENT MUST NOT HAVE ENOUGH TO DO

Last fall, a serial murderer stalked students living near the campus of the University of Florida at Gainseville. To date, the man who molested, executed and mutilated five students at the school has not been apprehended.

But if he is a student, and is arrested by the university's campus police force, U.S. Department of Education has a surprise in store for any Floridians who might be curious as to his identity: His name must be kept confidential, or the school will lose all of its federal funding.

Say what?

That's right, according to the education bureaucracy's interpretation of a federal law guaranteeing the privacy of academic records, campus police may no longer make public the names of students whom they arrest.

This ludicrous ruling was brought home recently when an education functionary (one with not enough to do) discovered that the campus police at Colorado State University routinely release the names of students they apprehend.

Next thing university officials knew, they received a threatening letter notifying them that all of CSU's federal funds would be withheld if the campus police chief didn't mend his privacy-violating ways and quit releasing the names of arrested students to the school newspaper or other media.

This week, University of Northern Colorado campus police announced it will no longer release the names of students arrested on campus, either.

This dubious law the Education Department is interpreting in such a broad manner was written, specifically, and lobbied for by a liberal academic establishment that thought it would be a good idea to prevent parents from learning how their offspring are doing in college—unless the offspring want them to know what their grades are. (Never mind whether the parents are footing the education bill).

That's bad enough.

But a federal judge recently ruled that universities have the right to classify campus police records as academic records allowing them to be kept confidential. To have both courts and bureaucrats interpret an obscure federal law in a way that in essence, usurps state and local law enforcement authority and stymies the public's very basic right to know who's been arrested for what, by whom and when is an even more serious matter.

Access to such information protects both the public and persons who are arrested from excessive and punitive action by the police.

This is gratuitous federal meddling far beyond what ought ever to be tolerated. The law defies common sense, should never have been enacted and ought to be repealed immediately.

If this is indicative of the activities and priorities of the federal Education Department, no wonder education is in the mess it's in today.

[From the Denver Post, Apr. 28, 1991]

A WEIRD NOTION OF SAFETY

If a 21-year-old man mugs someone in Fort Collins, his name is made public after his arrest. But if the same man commits the same crime on the campus of Colorado State University, then news of his arrest can't be released. That's because the U.S. Department of Education has usurped the power of the state legislature and imposed its own weird notions of public safety on CSU and all other colleges that receive federal funds.

In the past, CSU campus Police Chief Donn Hopkins routinely released the names of arrested criminal suspects, in compliance with Colorado's open records law. In fact, Hopkins personally could have been slapped with stiff penalties had he not done so.

This state statute allows the public to evaluate the effectiveness of the police and protects individuals from undue harassment. Indeed, one hallmark of a free society is that its justice system is open to public scrutiny—it prevents people from simply "disappearing," as happens in many dictatorships.

But when the U.S. Department of Education found out about CSU's sensible practice, its bureaucrats wrote CSU officials a nasty, heavy-handed letter threatening to withdraw all federal funds from the school unless arrest records were kept secret.

Hopkins now is in the position of breaking state law or ruining CSU's finances—an instance of being between the proverbial rock and a hard place.

As justification for its action, the Education Department cited a federal law that protects the privacy of student academic and personal records—but which never was intended to be an impediment to justice.

What's at stake in this dispute isn't an issue of whether a student might have cheated on a midterm, but whether the public has a right to know if an adult—which most CSU students are—is suspected of a crime.

Hopkins has asked for a legal opinion from CSU lawyers, but the public and Colorado's political leadership also should rally to his side.

Colorado Attorney General Gale Norton should assign a member of her staff to work with CSU on this issue, for the question affects all state institutions of higher learning.

Republican members of Colorado's congressional delegation, including Sen. Hank Brown and Rep. Wayne Allard, should write Education Secretary Lamar Alexander and demand that the policy be reconsidered.

If the policy isn't changed, Brown should attach an amendment to a pending proposal by Delaware Democratic Sen. Joe Biden, which would require colleges to be more honest about campus crime. A provision calling

for arrest records to be made public would be in keeping with the spirit of Biden's measure.

Regardless of whether one is a conservative or a liberal, Hopkins' wish to be open and honest with the public clearly is the proper policy.

[From the Greeley (CO) Tribune, Mar. 21, 1991]

CSU IN DUTCH OVER STUDENT RECORDS—RELEASING CAMPUS ARREST INFO VIOLATES FEDERAL LAWS

FORT COLLINS.—Colorado State University officials have temporarily prohibited campus police from releasing the identities of students named in crime reports after learning the practice violated a federal law.

"We absolutely do not want to violate the U.S. department's position," said Brian Snow, CSU legal counsel. "However, our hands are tied with the potential tension between various groups wanting to achieve various goals."

The Family Educational Rights and Privacy Act of 1974 prohibits universities and colleges from releasing student records without student approval under penalty of the loss of federal funding.

At the University of Northern Colorado, arrest records are open to public scrutiny and have been for many years in compliance with the state open records laws, said UNC Police Chief Terry Urista.

"We don't have secret arrests in this country, and I hope that doesn't come to pass," he said.

Urista said CSU is between a rock and a hard place since their compliance with state law has put the institution in violation of federal law.

"If they don't release the information, they're in violation of state law, if they do, they're in violation of federal law," he asid. "It puts CSU in a position of being between the devil and the deep blue sea."

Urista said UNC, although it operates the same as CSU regarding open records, has not been singled out by the Department of Education as being in violation of the federal law.

The case is further complicated by a recent ruling in a court in Missouri that campus crime records must be open to the public, a case which law experts say will have far-reaching implications.

But last month, the Department of Education notified CSU and 14 other universities nationwide that they were in violation of the act, according to Mark Goodman, executive director of the Student Law Press Center in Washington, D.C.

CSU was found in violation because its police department gives the news media and the public access to police and security records, an Educational Department spokesman told the CSU student newspaper in an interview published Wednesday.

The spokesman said violation notices were sent to the schools after the Student Press Law Center surveyed schools to determine how much information campus law enforcement officials make available to the public and the news media.

The department spokesman said, "We are not looking to act on the letters we sent to the particular universities . . . because we expect the letter itself to be enough.

"We did not lay out a timetable for compliance to the FERPA laws when we sent the letters out. But we have been encouraged by the feedback we've had from all the schools contacted, and they have all made some indication of changing their policies to meet the laws."

On Tuesday, several CSU officials outlined a revised plan to meet the requirements of the act temporarily while they investigated the situation further, Snow said.

"We have to keep in mind students' rights to be informed and the protection offered by information gathered by the media, a person's right to privacy and the level of involvement the police department will have with the university in general," he said.

CSU Police Chief Donn Hopkins said he thinks the decision is the best solution at hand.

"We are caught between a variety of federal and state statutes, but also the needs of our community to release police records," he said. "We are going to have to be more careful about printing personal information on our reports now, but there is no risk of important incidents being withheld under this decision."

[From the Greeley (CO) Tribune, June 22, 1991]

WIRTH AIMS AT COLLEGE COP REPORTS

(By Steve Porter)

Sen. Tim Wirth, D-Colo., plans to introduce legislation next week that could help clear up confusion over the release of campus crime reports.

Wirth is expected to offer an amendment to the omnibus crime bill now being debated in Congress. The amendment is aimed at resolving a dilemma created by a recent interpretation of the Family Education Rights and Privacy Act by the U.S. Department of Education.

The policy, which developed as a result of a court case in Missouri last fall, forbids federally funded colleges and universities from releasing information related to criminal activity on campus.

Specifically, the policy prohibits campus police from releasing crime information involving a student without the student's consent.

Lisa Caputo, an aide to Wirth, would not release details of the senator's amendment Friday.

"We are negotiating a reasonable solution on this," she said. "I can tell you more about it on Monday.

Lisa Helm, a Colorado State University spokeswoman, said the university would welcome a resolution of the matter.

"Our view is we think this is an extremely positive step by Sen. Wirth because it is a difficult situation for us," she said.

CSU officials decided April 9 to follow the Department of Education policy and stop giving out campus crime information involving specific students.

Lee Combs, director of litigation for the State Board of Agriculture, said CSU will continue to wait for a change in the law or a change in the Department of Education's stand on the issue.

"At this point, the Department of Education has put the issue to us very forcefully, and we have no choice but to comply," he said.

Federally funded schools that do not comply face the loss of those funds.

Earlier this month, the Mountain States Legal Foundation in Denver requested campus police records from the CSU police department and was denied the records on the basis of the education department policy.

Combs said the denial may result in a lawsuit by the foundation if the matter is not resolved through Wirth's legislation.

"I would expect if they follow through that we will be involved in some kind of test," he said.

Meanwhile, another challenge to the education department policy may be brewing. Arizona State University officials indicated in a recent issue of The Chronicle of Higher Education that they may file suit against DOE.

Combs said he hadn't heard about the Arizona State challenge but said CSU has no plans to become involved in such a case.

"We have not been aware of it nor have we been asked to contribute to the case," he said. "But I'm certain we would watch it very closely. It's an important issue to us."

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 397) as agreed to.

Mr. SPECTER. Mr. President, I am advised Senator BIDEN is on his way to the floor from a meeting on the Foreign Relations Committee and expects to be here momentarily. In the interim 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. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that time during the quorum call not be counted against this amendment because of the absence of a necessary party to the floor.

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

Mr. SPECTER. Mr. President, while we are awaiting the arrival of Senator BIDEN, I ask unanimous consent that I may speak on habeas corpus generally but without having it count against the time, since it does not relate to specific arguments that will be at issue when Senator BIDEN arrives.

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

Mr. WIRTH. Will it be possible for the Senator from Colorado to have a 2 minute window to just announce to the body an agreement being signed in Paraguay at this very moment?

Mr. SPECTER. Since that will be less time than the discussion, the answer is yes.

Mr. WIRTH. I thank the distinguished Senator from Pennsylvania.

Mr. President, I ask unanimous consent to speak for 2 minutes as in morning business.

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

COMMENDING PARAGUAY FOR PROTECTING MBARACAYU

Mr. WIRTH. Mr. President, as I speak, President Andres Rodriguez of Paraguay is signing an agreement to establish a 150,000-acre nature reserve in eastern Paraguay. This agreement is the culmination of 2 years work by the

Government of Paraguay, the Nature Conservancy, the Agency for International Development, the International Finance Corporation of the World Bank, the Moises Bertoni Foundation of Paraguay, and Ambassador Timothy Towell on behalf of the United States to protect this unique land known as Mbaracayu.

Two years ago, Mr. President, I had the privilege of visiting this extraordinary site with Senators GORE and Heinz and a number of colleagues from the House of Representatives. What we saw was an incredibly diverse and unique area of tropical forest. Mbaracayu is home to the last significant stand of Alto Parana forest, which includes species once found in the Atlantic forest of Brazil. Unfortunately, deforestation ravaged the Brazilian example of this forest type.

For this reason, the agreement to protect Mbaracayu is significant. It represents not only the effort to protect our remaining biological diversity, each day, 100 species of plants and animals are being eliminated from the catalog of biologic diversity. In the next 20 years, experts believe that 25 percent of all species are threatened by extinction. What has been accomplished in Paraguay is an effort to protect some of that diversity.

Mbaracayu is home to at least 19 natural plant communities and a wide representation of endemic and threatened plant and animal species. The land is also part of the historic hunting grounds of the indigenous Ache, a tribe that has traditionally been sustained by the use of wildlife and plants in the forest.

In recent years, the Mbaracayu property has been threatened by encroaching development within Paraguay and almost total deforestation of Brazilian territory to the east. Until recently, the Mbaracayu was held by the International Finance Corporation of the World Bank. The IFC, holding title by default, agreed to work with the Nature Conservancy and Paraguayan officials to protect this land, rather than allowing the debt to be paid through deforestation and conversion. We shall all applaud the IFC for demonstrating this commitment to environmental protection.

Together with the Bertoni Foundation, the Nature Conservancy developed a plan to buy the land from the IFC. At this point, Ambassador Towell and the Agency for International Development stepped in to lend U.S. assistance to this effort. Finally, the United National Development Program provided assistance to help purchase the land.

This agreement is a major accomplishment for the people of Paraguay and for the preservation of forests and biological diversity around the world. It is also a significant step toward greater cooperation among national governments, nongovernmental organizations and multilateral institutions to protect the world's forests. And it is also another example of the outstanding leadership provided by Ambassador Timothy Towell. Ambassador Towell has worked very closely with all parties to develop this agreement and has graciously and considerately kept me informed every step of the way. Ambassador Towell has been a leader in developing this agreement.

Once again, Mr. President, I want to congratulate and commend all of the parties involved in developing this very worthwhile and much-needed agreement. The people of Paraguay now have an incredibly unique nature reserve. The people of the world have an example of how we can work together to protect the forests and biologic diversity of the world.

I ask unanimous consent that a letter I sent to President Rodriguez and a background paper prepared by the Nature Conservancy be printed in the RECORD at this point.

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

U.S. Senate,
Washington DC, June 26, 1991.

His Excellency General Andres Rodriguez Pedotti, President, Republic of Paraguay, Ascuncion, Paraguay.

DEAR MR. PRESIDENT, I am writing to congratulate you, the people of Paraguay, the International Finance Corporation, and the Nature Conservancy for developing this historic agreement to establish the Mbaracayu nature reserve in eastern Paraguay. This is a major accomplishment for the people of Paraguay and for the preservation of forests and biological diversity around the world.

As you know, I was honored to visit the Mbaracayu with a number of colleagues in January of 1989. This unique forest is one of the last remaining examples of the "Alto Parana" forest type. Your efforts will help protect the dense high forest, natural grasslands and an extraordinary array of plants and animals unique to this area. In addition, you have demonstrated your support for preserving the traditional lands used by indigenous peoples.

I also wish to congratulate and commend the United States Ambassador to Paraguay, Ambassador Timothy Towell, as well as the Agency for International Development, for their work to establish the Mbaracayu. Ambassador Towell has long supported this project and has been a leader in this effort. Finally, the Nature Conservancy, one of the leading non-governmental organizations in the United States, has demonstrated once again its success at protecting the world's tropical rainforests.

Again, let me congratulate you, Mr. President, on the success of your efforts to protect Mbaracayu.

With best wishes,
Sincerely yours,

TIMOTHY E. WIRTH.

THE NATURE CONSERVANCY,
Arlington, VA.

LATIN AMERICA PROGRAM

THE MBARACAYU TRACT

Almost 225 square miles in size, the Mbaracayu property is one of the last large tracts of dense sub-tropical forest in Latin America. The area is covered by a range of habitats—dense high rain forests, natural grasslands, rivers and caves—harboring a diverse array of biological systems and rare species. Many plants and animals, now extinct or severely endangered in other regions, have been identified at Mbaracayu.

Initial field surveys have identified 19 natural plant communities and a wide representation of endemic plants and threatened species within the reserve's 142,000 acres. These include jaguars, tapirs, pecarries, giant armadillos, and the rare bush dog. The avifauna includes the king vulture, the endemic bare-throated bellbird, and the large macaws. The presence of two "indicator species", the barefaced curassow and the black-fronted piping guan, suggest that the land has been only slightly altered.

A recent study by the Missouri Botanical Garden confirmed that Mbaracayu contains the most significant remaining example of "Alto Parana", a forest type which includes species only found in the now largely destroyed Atlantic forest of Brazil. Mbaracayu may be the last opportunity we have to protect a unique forest type along with hundreds of unique species, many of which have yet to be identified by science—let alone studied for their potential usefulness to humanity.

Mbaracayu is also the traditional hunting grounds of the Ache, and indigenous tribe of hunters and gatherers only recently (1976) brought into contact with the outside world. The Ache live in four settlements surrounding the Mbaracayu tract and depend on the wildlife, plants, and fruits of the forest for survival. The continued use of the property by the Ache is an important management consideration.

THREATS TO MBARACAYU

Poaching and occasional timber extraction are known to occur within Mbaracayu. Timber companies and agro-industry have expressed interest in buying the area for purposes of commercial exploitation. At the same time, colonization programs to the east of Mbaracayu are rapidly converting remaining forest tracts to agricultural use. Adjacent lands in Brazil are nearly 100 percent deforested.

CONSERVING MBARACAYU

The International Finance Corporation (IFC) of the World Bank group currently holds title to the land by default of the previous owner, a lumber corporation. The Moises Bertoni Foundation, a private Paraguayan conservation organization, and The Nature Conservancy have been negotiating with the IFC and the government of Paraguay to ensure protection status for the property and to provide direct management assistance.

Recognizing that a private commercial buyer would seek to recover investment through logging and converting the land for agriculture, the IFC has explored ways to transfer the property for its conservation. The IFC has agreed to sell the property to The Nature Conservancy and the Moises Bertoni Foundation for the establishment of the Mbaracayu Nature Reserve.

The Conservancy and the Foundation are currently working on a management plan for the new reserve. The plan will identify a program of economic development for neighboring communities based on the sustainable use of the area's natural resources and protection of the watershed. It will outline a public education campaign aimed at enlisting the participation of local land owners in

the overall conservation program, and it will seek to develop programs to provide training and employment opportunities to the Ache people.

Mr. WIRTH. Mr. President, this is the last remnant of rain forest in Paraguay, and it is very familiar to the distinguished occupant of the chair. The Senator from Colorado, the Senator from Alabama, and others visited Paraguay 2 years ago and went out to this very important area, which is the last rain forest in Paraguay, right on the Brazilian border. At that point, we attempted to add some impetus to the saving of this land.

This has now happened, Mr. President, one of those accomplishments that comes up from time to time. We can actually see some result in what all of us do. This is a very exciting development. This is a very major and significant game preserve. This is the preservation of some species in an area where we really do not know a lot of what else is in there. Mr. President, I am very pleased that this has happened and very pleased that the distinguished occupant of the chair, the Senator from Colorado, and others were able to make a contribution to this.

I want to particularly commend the distinguished Ambassador to Paraguay, Timothy Towell, who has relentlessly pursued this particular goal. This is being signed as we are here at this very moment.

I yield the floor, and I thank the distinguished Senator from Pennsylvania.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 381, AS MODIFIED

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I shall use this time until Senator BIDEN arrives to discuss some of the underlying considerations on habeas corpus on the understanding that it will not be charged against the pending amendment.

Mr. President, the modification which has been submitted severs the portion which I had submitted yesterday calling for one proceeding in the State court with one determination by the State supreme court before a Federal court has jurisdiction without having the collateral State habeas corpus proceedings because of my interest in speeding up the process and trying to set reasonable time parameters for the conclusion of death penalty cases arising in State courts.

That provision has drawn a good bit of concern from attorneys general and from district attorneys who are anxious to preserve the State habeas corpus proceedings. It has been my decision to defer action on that part of my amendment, although I do intend to press it, but to give an opportunity for the attorneys general and district attorneys to come in and have hearings on concerns which they have.

The portion of the amendment which remains, Mr. President, involves time limits for consideration by Federal courts, provisions which have been supported by my distinguished colleague from South Carolina, Senator THURMOND, as part of an amendment which was offered and adopted last year that Senator THURMOND and I collaborated on, with assistance from Senators HATCH, SIMPSON, and others. It is my understanding that Senator BIDEN will oppose those time limits, and we will have that debate when he arrives.

On the subject of what is happening with habeas corpus in this country today, Mr. President, I submit that it is an absolute quagmire with procedure being elevated over substance so that the courts are spending a tremendous amount of time considering what is a full and fair hearing without actually getting to the merits, which ought to be considered once and once alone. These cases ought not to bounce back from Federal courts to the State courts under the rule that there has not been full and fair consideration in the State courts and then to have hearings held there, to have appeals taken to States supreme courts, and have it come back into the Federal court where the tennis game continues with the matter shuffling back and forth on procedural grounds.

The early days of common law pleading, Mr. President, which I think you will recall, being a member of the bar and a distinguished trail lawyer, were filled with procedural technicalities which obscured the substance. In civil proceedings, there has been a conclusion that there ought to be notice pleading; that the courts ought to get down to the substance and the merits of the case.

I submit that habeas corpus practice in the Federal courts needs a complete overhaul so that the Federal courts will get down to considering the merits, to have a consideration one time on the merits which are raised, and to conclude the matter on that basis without having lengthy, esoteric discussions about whether there has been full and fair consideration in the State court and then remanding it to the State court, all of which involves delay, and justice is not done.

We have a situation in this country today where there are more than 2,500 men and women on death row. As I have said before on a number of occasions, Mr. President, I support the death penalty because I believe it is an effective deterrent. I have seen many cases where professional robbers and burglars would not take weapons in the course of a robbery or burglary because of fear of the death penalty.

The delays and the absence of having the death penalty imposed, I believe, are a signal which ripples through and permeates the entire criminal justice system where criminals have a strong sense they will not be punished for what they do, that, if the worst happens and the death penalty is imposed, it will not be carried out because they know the cases last for as long as 17 years, an average of 8 years and, in the meantime, the system permits these appeals to go on endlessly.

I am convinced that State courts ought to consider all issues in a death penalty case in one proceeding, one appeal to the State supreme court. Then the matter ought to go immediately to Federal court where the Federal court considers the merits of what the defendant is arguing about, again with time limits. This could construct a fair procedure where the defendant has had adequate counsel, and it could be completed in the course of approximately 2 years. To accomplish that, we need to have one proceeding in the State courts.

Following the submission of my amendment yesterday, my phone rang off the hook from prosecutors from Pennsylvania and prosecutors, attorneys general and DA's from around the country, many of whom I know personally, having been district attorney of Philadelphia for some 8 years and having participated nationally in the DA's work.

Illustrative of this problem—and there are many cases which could be cited, Mr. President, but I want to take a moment or two on a 1989 decision by the Supreme Court of the United States on a case which arose out of the Federal court in Philadelphia captioned Castille versus Peoples. This case involved a conviction where the appeal was taken to the Pennsylvania superior court, an intermediate court, and then a petition was filed with the State supreme court to have the State supreme court review the matter. That petition alleged constitutional issues.

The State supreme court dismissed that petition without comment, which is frequently done by the courts. The defendant then went into the district court in Philadelphia, and the district judge said the petitioner defendant has not exhausted his State remedies because we do not know what the State supreme court did.

The case then went to the Federal court of appeals, which reversed the district court, and the court of appeals said the fact that the State supreme court refused to hear the case with these issues pending before it is sufficient for us to say that the petitioner has exhausted his State claims.

The case then went to the Supreme Court of the United States, and the Supreme Court of the United States reversed the third circuit and said, we are not sure that the State supreme court considered the merits of this case it was only discretionary with them as

to whether they would hear it or not. Therefore, we remand this case to the circuit court of appeals. The circuit court then reconsidered the case and sent it back to the district court. The district court then finally took up the issues, which were not too complicated, held a brief hearing and decided the case.

I do not expect that too many people are watching on C-SPAN 2, Mr. President, because, if they were, when they started to hear this kind of legal technicality, they flipped it off. It is almost unintelligible. What is happening is there is one pyramid after another where the substance is being dodged and procedure is being elevated. There are countless arguments on whether there has been a full and fair hearing in the State courts, which takes much longer than a consideration of the merits of the case.

Mr. President, I note that the distinguished chairman of the Judiciary Committee is on the floor, and this would be a good time, I think, to move on to the bill.

Before doing so, I would note for Senator BIDEN that I had submitted two amendments by agreement, which I had discussed with Senator BIDEN previously and represented to the Senate that I had discussed them with Senator BIDEN and with Senator THURMOND. One related to the Lancaster satellite court and the other related to an addition to the Philadelphia jail, which has been authorized and appropriated, to provide working space for the U.S. Attorney's Office.

I just make those comments while the distinguished chairman of the Judiciary Committee is on the floor so it is apparent that those matters were taken up by me with him personally.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am inclined to accept both of those amendments, and although I do not agree with the Senator's amendment on habeas corpus, to accept it on condition we do not have a rollcall vote and we get it all done real quickly. That will have a great impact on my willingness to debate or not debate this subject matter.

But I wonder, what is the Senator's desire?

Mr. SPECTER. If the chairman will accept my amendment, I will not press for a rollcall vote.

I am just speculating about that in my mind's eye because of the concern as to what will happen in conference.

Mr. BIDEN. Mr. President, I can assure the Senator that his amendment—he will have my word on it—will not be prejudiced any more or less by whether or not it is voted, gets an overwhelming vote or no vote, and whether or not it is voted by voice or rollcall vote. As a matter of fact, the debate the Senator from Delaware is having with himself right now is whether or not to stand in the well and try to talk everyone into voting against this amendment or whether or not just to accept the amendment.

What it does, it imposes upon Federal judges a requirement that we cannot impose. If 110 days passes and they have not ruled at one stage, what are we going to do? Are we going to go to another judge and tell the judge he did not rule in 110 days so we are going to lock him up? Are we going to get a writ of mandamus to suggest that that be done? Are we then going to debate a writ of mandamus, which may take another 110 days?

I think it is totally unnecessary. It has nothing to do, as the Senator I am sure pointed out, with the ability of a defendant to file or not file, the time limits imposed on a defendant to file or not file. It has to do with us imposing upon an independent branch of Government a requirement that they must rule within a specific number of days.

I think that is generally bad policy, but once again I suggest to my friend I think we could wrap up all three of his amendments very quickly by a voice vote and move ahead. I expect my time has probably expired.

The PRESIDING OFFICER. The Chair advises the Senator from Delaware the Senate has adopted, without objection, two of the amendments.

Mr. BIDEN. Obviously, then, my leverage is considerably less than I thought it was because of my earlier good will. So I will now appeal to the Senator's sense of comity and good will rather than the implication that I could do anything about the other two amendments anyway.

Mr. SPECTER. Appeal granted.

Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from Pennsylvania has 11 minutes and 22 seconds. The Senator from Delaware has 2 minutes 6 seconds.

Mr. SPECTER. I am prepared to accept the suggestion made by the distinguished chairman to move the bill along. It is a long bill, and I know he has many things to attend. I want to discuss it for a moment or two, but I will accept Senator BIDEN's suggestion that we take it by a voice vote without prejudice to this Senator's position to assert in the conference, and I will expect Senator BIDEN to oppose it in conference, the fact that it was taken by voice vote to accommodate the Senate schedule and it may be regarded for purpose of the conference as having had an overwhelming vote in support by the Senate, for whatever that means in conference.

Sometimes it means—who knows what it means—but I will try to be present at the conference and I would say at that time we took it by voice vote and it was an accurate representation on my part that Senator BIDEN will treat this as having had an overwhelming vote in support.

Senator BIDEN is nodding in the affirmative.

Mr. BIDEN. I understand.

Mr. SPECTER. Mr. President, on the merits of this amendment, I think it is a very important amendment, even though, as Senator BIDEN has accurately stated, it is not possible to take punitive action or enforcement action against the judges. When the Congress says there shall be a timetable established for Federal judges on death penalty cases, I think the courts will pay attention to that statement of public policy.

At the present time we have provisions under the Speedy Trial Act which require that criminal cases be tried in a certain timeframe. We have provisions under preventive detention which require that decisions be made within a certain timeframe.

When the Congress of the United States makes a decision saying that district court judges should give priority to death penalty cases and decide them in the course of 110 days, that time limit has been established so that you have 20 days for the State to file an answer and then a decision within 90 days. We have had extensive hearings and there has been a wealth of authority that it is not too much to ask a Federal district judge to put this at the top of his list and to decide it expeditiously.

I put in the RECORD yesterday statistics which show that there would be about one half of these cases per year for each judge, and that it would not be problemsome. Illustrative of that would be in Pennsylvania in 1989 there were 15 death cases and there are currently 39 authorized judgeships. So that in the normal course of business you would expect a judge to have one of these cases every 2 years. In California, in 1989, there were 29 death sentences with 54 judges. So again a judge would be likely to have one of these cases every 2 years. In Texas, there were 29 death sentences in 1989 with 50 authorized judges. Then the requirement would be that the court of appeals would decide the case within 90 days. Again, the Supreme Court of the United States would decide on a petition for certiorari in these cases within 90 days.

What I seek to do, Mr. President, is to establish a sense of priority on these cases so that they will not languish in courts because of the prejudice that results, because of the time which passes, because new decisions come down and new petitions are filed on new grounds and the situation is interminable. I believe that by establishing these time limits in the Federal court, which is one important facet, and then coming back next year to have hearings on the habeas corpus process, which I had not discussed with my friend from Delaware——

Senator HATCH has also stated a keen interest in this subject. There are other Senators who are interested in it.

I might say at this time that I had prepared an amendment on the issue of Batson, which involves the application retroactively of the rule which prohibits exclusion of blacks, for example, from juries. We have not had a chance in the Judiciary Committee to have hearings on that matter.

This crime bill was taken up last year at the end of the 101st Congress. We are now just 6 months into the 102d Congress. I have considered offering an amendment on the Batson issue but have decided not to because there is a great deal of concern among prosecutors that if we were to look back on the cases where there was an allegation that there had been racial exclusion that it would prejudice the prosecutors since they could not prove the reasons for striking jurors.

Perhaps just a slight amplification, the rule is present today which prohibits systematic exclusion of Afro-Americans, for example, from a jury. But that rule has not been applied to cases which were decided prior to that being stated as a constitutional rule.

It is the sense of this Senator that that is a very fundamental concern and that the law currently in existence ought to be applied. But I want to give an opportunity for those who oppose it to come in and have hearings. I think that issue could legitimately be a part of overall hearings on habeas corpus. It might be possible to protect the interests of the State so that the issue could be raised only where an objection had been lodged at the time of trial which would have put the prosecutor on notice, for example, that he will have to maintain records on that point.

It is very important that there be fairness on all sides. These matters are very, very complicated. So that would be an appropriate subject for hearing. That would be encompassed during the course of hearings at a later time.

I invite a comment by the chairman of the committee, as to the possibility of those hearings, and then I would be glad to move for a voice vote.

Mr. BIDEN. Mr. President, I am anxious to have those hearings. As a matter of fact I will put the Senate on notice. I may very well introduce today the very amendment the Senator has concluded to not introduce, if he does not.

I have every intention at this moment of introducing at least two, possibly three, habeas corpus amendments and of some significance, including the full and fair provision, and potentially Batson.

So it is my belief that the habeas corpus rule as passed yesterday without amendment is a disaster. But I will be discussing that with the ranking member, and with my friend from Pennsylvania, before I do that, if I do that.

I promise you we will have hearings on habeas corpus, and we probably will not wait until next year.

Mr. SPECTER. I thank the chairman for those assurances. I think we ought to have hearings. I think we ought to go fully into the Batson issue, give prosecutors a chance to be heard. We ought to go fully to deal the jibberish that comes out of a case like Castille versus Peoples where form is elevated over substance. It is time Congress take the comprehensive look at the whole habeas corpus process so that there be one determination, one decision on the merits, and these cases not be passed aside on procedural grounds.

With that, Mr. President, I am prepared to accept the offer of the chairman of committee to accept this amendment on the terms we discussed.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. BIDEN. I thank the Senator. I yield my time.

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

The amendment (No. 381), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 398

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 398.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 2. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

Mr. THURMOND. Mr. President, today, I rise to offer an amendment which embodies legislation I introduced earlier this year, along with my colleague Senator HOLLINGS, which will address an unfortunate loophole under

Federal law which permits persons who murder Americans in certain foreign countries to go unpunished. The Murder of United States Nationals Act of 1991 ensures that those who kill American nationals while outside of the United States will face prosecution.

Under current Federal law, the U.S. Government cannot extradite a person to another country in the absence of an extradition treaty or congressional authority to do so. This limitation applies even in cases where an American has been murdered. To further complicate the matter, the Federal Government has no jurisdiction to prosecute a person residing in the United States who has murdered an American abroad except in limited circumstances, such as a terrorist murder or the murder of a Federal official. As a result, an individual can murder an American in any one of the approximately 70 countries with which we do not have an extradition treaty, return to the United States, and go unpunished. Some of the countries with which we do not have an extradition treaty include the Philippines, South Korea, Kuwait, and Saudi Arabia. If an American national is killed in any one of these countries, it is possible that the killer will go unpunished if he or she manages to return to the United States.

Mr. President, one might wonder whether this is likely to occur. Unfortunately, I have been made aware of just such a case where a suspect in the killing is walking our Nation's streets unpunished. In 1988, Carolyn Abel, an American teaching and studying in South Korea, was brutally murdered. She was attacked in her sleep, repeatedly stabbed, and finally her throat was cut. Shortly thereafter, an American confessed to helping another American in covering up the murder. Unfortunately, that person had already returned to the United States. South Korea, one of many countries with which the United States does not have an extradition treaty, requested that the suspect be extradited to face murder charges. Yet, current law prohibits such a procedure. According to State Department and Justice Department officials, there is evidence to believe that this person may be responsible for the death of Ms. Abel. Nevertheless, our Government's hands are tied and she walks the streets a free woman. Clearly, Federal criminal law and the procedures for extradition must be remedied.

The Murder of United States Nationals Act of 1991 would amend current law in two ways. First, it would add a new section to title 18 to make it a Federal offense to kill or attempt to kill a national of the United States while such person is in another country. Prosecution under this section, however, would be limited to cases in which the alleged murderer resides in the United States and to cases in which the Attorney General certifies that the country in which the crime occurred lacks the lawfully ability to secure the return of the alleged murderer.

Mr. President, the second half of this amendment amends the procedures for extradition to provide the executive branch with the necessary authority, in the absence of an extradition treaty, to surrender to foreign governments those who commit violent crimes against U.S. nationals. This authority is limited to those cases involving victims who are U.S. nationals and to cases in which the Attorney General certifies that: First, the evidence presented indicates that had the offense occurred in the United States, it would constitute a crime of violence under Federal law; and second, that the offense charged is not of a political nature. Since this amendment is procedural in nature and since extradition treaties are retroactively applicable, it is intended that this section of the bill apply retroactively.

Without question, it would be difficult to hold the Federal Government responsible for the prosecution of every crime committed against Americans abroad. However, Congress should provide the executive branch with the authority to prosecute those who commit vicious, brutal acts against Americans and who now reside in the United States. Further, the executive branch should have the authority, in limited cases, to surrender for trial those offenders who are responsible for heinous acts committed against Americans in foreign countries without regard to the existence of an extradition treaty.

In closing, there are certainly cases in which the impediment to our having extradition treaties with some countries is their inferior criminal justice systems. However, there are other countries with which extradition treaties are being discussed and still others with which we recently joined forces with in the war against Iraq. Furthermore, democracy is spreading throughout the world faster than anyone could have anticipated and certainly faster than extradition treaties can be negotiated and ratified. A complete bar to extradition ignores these world-wide changes which are unfolding before us and does not serve the ends of justice. Simply put, brutal murderers of Americans should not be free to walk the streets of our Nation because we lack the formality of an extradition treaty. In this era of unprecedented world travel and accessibilty to foreign Nations, the United States ought to have the tools it needs to ensure that those who choose to victimize Americans are appropriately punished—either here in the United States or, in appropriate cases, in the country where the crime occurred.

For these reasons, I strongly urge my colleagues to support this amendment.

Mr. President, it is agreed by both sides that this amendment is acceptable. There is no objection to it. Therefore, I ask for a vote on it.

Mr. BIDEN. Mr. President, I accept the amendment. I am ready to vote.

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

The amendment (No. 398) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, we are, the Chair knows, lining up as many amendments as we can. There are a number we will try to dispose of in a timely fashion so Senators are able to have some reasonable way to plan what the rest of the day and the evening will look like.

We have one amendment that is about ready to go as one of my colleagues is waiting for the actual language to be brought over and sent to the desk.

So I momentarily suggest the absence of a quorum, with the anticipation that we will within the next few minutes ask that the quorum be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 399

(Purpose: To amend Section 1904(b) of S. 1241 to require the inclusion of representatives of the criminal defense community on the membership of the National Commission on Crime and Violence)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 399.

(1) On page 197, line 10, insert after "law enforcement, prosecution," the words "criminal defense.".

Mr. BIDEN. Mr. President, the purpose of this amendment is to see to it that the National Commission on Crime and Violence which we put together which is designed to get all the major players in the criminal defense system together, and actually sit down and come up with some firm recommendations as to how we should proceed to deal with crime and violence in the Nation; that there will be full representation of all parties on that Commission.

That is all this amendment does. We inadvertently left out one sector of the

criminal justice system in that process. That has been added. It has been agreed to I am told, I can assure the Chair and my colleagues, by the Republican side.

I urge its adoption.

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

The amendment (No. 399) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. I thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. 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 Alabama.

AMENDMENT NO. 400

(Purpose: To require that payments pursuant to a restitution order be made to an entity designated by the Director of the Administrative Office of the United States Courts and to provide funding for the administrative costs of collecting such payments)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 400.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 199, between lines 20 and 21, insert the following:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

On page 199, line 21, strike "(A)" and insert "(B)".

On page 200, line 9, strike "(B)" and insert "(C)".

On page 200, strike lines 17 through 22.

On page 200, line 23, strike "(F)" and insert "(E)".

On page 201, line 2, strike "(E)" and insert "(D)".

On page 205, lines 11 and 12, strike "the clerk of the court" and insert "an entity designated by the Director of the Administrative Office of the United States Courts".

On page 205, line 12, strike "the clerk" and insert "the entity".

On page 205, line 14, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

On page 206, lines 10 and 11, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

Mr. HEFLIN. Mr. President, as you may know, the Federal judiciary devotes enormous personnel and expense to the collection of criminal fines and penalties. These fines are paid into a single account, the victim's crime fund, which was established to provide financial assistance to the victims of crime.

At this time, there is no centralized fine collection process in the Federal judiciary. Each clerk's office and probation office processes fines independently and communicates individually with the Department of Justice and its constituent officials, including the Bureau of Prisons. As you can imagine, Mr. President, the system is not very efficient. It has been estimated that approximately $1 billion a year goes uncollected because this system has so little organization. Congress has directed the administrative office of the courts to establish a centralized and highly automated system to receive and distribute fine payments. A pilot program, the National Fine Center, has been established as an effort to correct this problem.

The National Fine Center is designed to combine the administrative procedures of receipt, account maintenance, billings, notification, and record-keeping that are now performed with no coordination.

The National Fine Center will establish an automated network that will provide on-line communication with clerks of the court, probation officers, the Department of Justice, the U.S. attorneys and the Bureau of Prisons.

The National Fine Center will process all restitution orders for victims of Federal crimes. It will receive the payments from violators, disburse payments to victims, and notify violators, probation officers, and prosecutors of missed payments.

Presently, funding comes from the first $2.2 million collected in the crime victim's fund in excess of uncertainty in planning and operating the National Fine Center. The Judiciary must wait until the end of the fiscal year to determine whether sufficient fines have been collected to trigger the allocation of the $2.2 million. The uncertainty is heightened since the moneys received by the crime victim's fund in any given year may not reach the cap and thus no funds would be available to the Judiciary.

The purpose of this amendment is to remove that uncertainty. By authorizing money to the National Fine Center from the crime victim's fund the program will essentially pay for itself. Through automation, the center will be able to dramatically increase the amount of compensation actually paid into the fund. By tapping into the estimated $1 billion in unpaid compensation, the costs of the center will be offset in a very short period of time.

Mr. President, this amendment serves only to make restitution provision of this crime bill more effective. I understand that this amendment has cleared both sides and seeks its immediate adoption.

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

Mr. BIDEN. Mr. President, I think it is a fine amendment. We are prepared to accept it, and I understand my friend on the Republican side is, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 400) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for 5 minutes.

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

RELEASE OF UNITED STATES-JAPAN AUTO PARTS PRICE SURVEY

Mr. LEVIN. Mr. President, last week the small business subcommittee which I Chair learned that every 16 hours a U.S. auto parts maker goes bankrupt.

Today, the Commerce Department bolstered the case for action. It released a price comparison of auto parts in the United States and in Japan. The results should be another wake-up call to the administration, the Congress, and to America.

This study shows that the prices of identical or comparable auto parts averaged 340 percent more in Japan than in the United States. One example is a muffler for a Toyota. The same muffler costs five times more in Japan than it costs in the United States.

Now, what is going on? Two things. The first is that Japanese auto parts are being dumped at subsidized or predator prices here in the United States; and those are prices below what it costs to make them or below the home market price. Second, Japanese firms are discriminating against American parts, keeping us out of their lucrative home market. Because if we were allowed in freely, we could then send our parts in that could outcompete that same muffler in the Japanese market.

The dumping of Japanese parts in the United States and the barriers to the sale of United States parts in Japan are costing us thousands of jobs. And, if we fail to act, not only will we lose our domestic industry, but consumers in America will end up paying the same high prices that consumers in Japan are paying now.

This is not an issue of quality or consumer choice. We are talking about the same parts being priced here by Japanese companies at a fraction of what they charge for the same part in Japan.

The severity of the problem is without question. What has resulted is a $1 billion bilateral auto parts deficit with Japan in 1980, which has grown now to a $10 billion bilateral trade deficit just in auto parts with Japan. And a new study by the University of Michigan predicts that the $10 billion annual deficit that we have now is going to grow to a staggering $22 billion by 1994. This is just in auto parts.

The message is clear. We are not going to reduce our trade deficit with Japan significantly unless we reduce our auto parts deficit. And to do this, we have to tear down barriers to the sale of United States auto parts both in Japan and here at home to stop the predatory pricing, the dumping, of Japanese auto parts in the United States.

Last week, the Small Business Subcommittee on Innovation, which I Chair, heard testimony from the Auto Parts Advisory Committee, industry leaders selected by the administration to advise the administration on the subject of unfair trade practice against American auto parts. These administration-selected industry leaders told Senator KASTEN and me what the administration can and should do to reverse this trend.

More pleas and more rhetoric are not what is needed.

Japanese firms will have no incentive to change their pricing and purchasing patterns unless we state firmly and unequivocally that we will enforce our dumping and unfair trade laws and put equivalent restrictions on Japanese products if they do not stop their discrimination against American-made auto parts. We have the tools, Mr. President. What we need is the will to use those tools.

Today Senator KASTEN and I are sending a letter to the President urging him to adopt these industry recommendations. Our industry is now speaking loudly and in one voice. They are being devastated by unfair trade practices and there is just no excuse not to act. The problem is too big to ignore. If other countries discriminate against our products, that is their decision. But, if we tolerate that discrimination against American products, that is our decision.

We can control our own economic destiny like other countries. We owe that to ourselves and to our children. It is time for this administration to act, to tell other countries that we are not going to treat them better than they treat us when it comes to trade and that we are going to place equivalent restrictions on their goods to the discriminatory restrictions that they place on our goods. If we will do that and finally take action which has been overdue, now, for decades, we will find this trade imbalance finally ending and the loss and drainage of American jobs abroad finally coming to an end.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUSTICE MARSHALL'S RETIREMENT

Mr. KENNEDY. Mr. President, Justice Marshall's retirement brings to a close a brilliant and inspiring chapter in America history, and in the history of the Supreme Court.

Because he stood up so courageously for opportunity for all Americans, he became a legend in the law and a living symbol of the best in American justice. He enriched us all, and the country will be poorer because of his retirement.

ORDER FOR RECESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate stand in recess from 2:30 until 3:05 this afternoon.

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

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. 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 New Jersey is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 401

(Purpose: To amend the Controlled Substances Act to provide enhanced penalties for drug dealing in or near housing facilities owned by a public housing authority)

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

The PRESIDING OFFICER. The clerk will report.

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 401.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

Mr. BRADLEY. Mr. President, drug-free zones around schools and playgrounds send a clear message that we will not tolerate our children being preyed upon by drug dealers when they leave home for the classroom. When I was back in New Jersey, Mr. President, in Elizabeth, NJ, I realized that we are overlooking some kids and some families who are most at risk. Those are families of public housing.

Most of our hope and expect that we can keep our children safe and free from drugs at home. We do not need criminal penalties to declare our homes drug-free zones. But talk to parents who live in public housing projects. They do not have that confidence. They work hard against all odds to raise kids safe and sound in the middle of what sometimes are open-air drug markets, full of violence. They know the kids go outside in the morning, and when they do, they might be safe. But by the afternoon or early evening, the streets and hallways are abuzz with drug trafficking and violence.

These parents know the calendar. They breathe easier in the winter, when some of the drug dealers actually prefer to be in prison, where it is warm and cheap, and they can stay in business. Come spring and summer, they are back on the streets.

Mr. President, above all, these parents know that they cannot isolate their children from what is going on outside their windows and beyond their front doors. Kids are a No. 1 commodity for drug dealers, especially in housing projects. They are the new customers, the potential runners, the lowest rung in the drug dealer's organization.

Why? Just because they are kids. By ensuring that only juveniles actually touch the drugs, the drug dealers avoid arrest and avoid being tried as adults. Parents in housing projects, like all parents, worry about their kids using drugs. They worry about their kids getting involved with selling drugs. They worry about kids who want to wear

beepers just to give the impression that they are in the drug business. We need to do something to help them make the place where they live a drug-free zone.

Mr. President, this amendment, inspired by the courageous parents of a housing project in Elizabeth, NJ, that I met this week, is very simple. It says that what we do for schools and playgrounds, we will do for these families' homes. The effect would be to double the penalty for selling drugs in the vicinity of a public housing project, as we do in and around schools and playgrounds.

The minimum sentence would be 1 year. For the second offense of selling drugs near a school, playground, or public housing, the penalty would be triple, and the minimum would be 5 years.

Mr. President, families living in public housing projects do not have much. They are trying to build a better life for themselves and their kids. Drugs destroy that possibility, just as surely as drugs destroy the possibility of learning in school.

For all those reasons that we want our schools to be drug-free zones, let us pass this amendment and give families who live in public housing projects what they have a right to expect: drug-free homes.

Mr. President, I understand that this amendment has been cleared on both sides, and I hope we can agree to the amendment.

Mr. BIDEN. Mr. President, I think it is a fine amendment, a thoughtful amendment. It is directed at a problem in an area where we do much too little, and where we can do so much more.

I compliment my friend from New Jersey, and we are delighted to accept the amendment. I am told, and I understand, that my Republican colleages are prepared to accept it, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 401) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I want to thank the distinguished Senator from Delaware for his willingness to support and accept this amendment. As he knows, a lot of families in public housing projects now know at least we are thinking of them a little bit in this crime bill.

Mr. BIDEN. Mr. President, the Senator is correct. One of the things we have attempted to do, and I have attempted to do throughout this debate on the crime legislation for the past several years, for example, is we find little things, such as the only thing we know that works, and we can show specifically that there is a direct correlation.

As the Presiding Officer knows well, because of his keen interest in juvenile justice problems, in terms of incidence of drug abuse, where there is a Boys Club or Girls Club, there is a significantly lower incidence of drug abuse in public housing projects. And the mere fact that we would be able to place a Boys Club or Girls Club in every public housing project would be extremely cheap, and we know—we know—it works.

So I agree with the Senator, with his intention, and I believe this will go a long way to dealing with those who are the victims in the projects, not only victimized by the dealers, but victimized by the users. I compliment him for his work. I am delighted he has continued to take such a keen interest in matters relating to people in need.

Mr. BRADLEY. Mr. President, again, I thank the distinguished Senator for supporting the amendment. It sends a very clear message: If you do drugs, transact, within 100 feet from a public housing project, you are going to be gone for a year. If you do it again, 5 years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

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

JUSTICE THURGOOD MARSHALL

Mr. BIDEN. Mr. President, there was an announcement made just a few short minutes or an hour ago on the last day of the Supreme Court that is more significant in my view than any decision the Court handed down today. And that is that Justice Thurgood Marshall has announced that he will be retiring from the Court and will not be there on the first Monday in October when the Court reconvenes.

Mr. President, in my view the Supreme Court has lost a historic justice, a hero for all Americans and all time. And it is my sincere hope that the President will nominate a replacement who is worthy of this great man's place on the Court and in our hearts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Wisconsin, asks unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS UNTIL 3:05 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:05 p.m. today.

Thereupon, at 2:30 p.m., the Senate recessed until 3:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under a previous unanimous-consent request, the Senator from California is now recognized.

Mr. SEYMOUR. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

RESIGNATION OF JUSTICE THURGOOD MARSHALL

Mr. SPECTER. Mr. President, I asked my colleague for 2 minutes to make a very brief comment on the surprise resignation of Justice Thurgood Marshall. Justice Thurgood Marshall was well known for his statement that he had a life term and he intended to serve it out. His resignation from the Court brings to a conclusion a very distinguished career on the Supreme Court of the United States which began with his appointment by President Lyndon Johnson in 1967.

Thurgood Marshall has an extraordinary records as a practicing lawyer. In perhaps the most celebrated case in recent history, he was and successfully argued Brown versus Board of Education. His tenure on the Supreme Court was just as distinguished. Justice Marshall, as an African-American, provided the Court with a very special perspective and his departure will leave a significant portion of society without a voice on the Court, at least for the moment.

The Court is a great institution in America. It needs balance on all sides. For that reason, I think this is a very important appointment which the President will be called upon to make. In the meantime, I note that I will be joining millions of Americans in thanking Justice Marshall for his outstanding service on the Supreme Court.

I thank the Chair.

I thank my colleague from California and yield the floor.

The PRESIDING OFFICER. The Senator from California has the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 402

(Purpose: To require a report on battered women's syndrome)

Mr. SEYMOUR. Mr. President, I have an amendment. I request its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 402.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. . REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition.

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trial.

Mr. SEYMOUR. Mr. President, the amendment I have introduced requires the Attorney General and the Secretary of Health and Human Services to conduct a study assessing the medical and psychological basis of battered women's syndrome and the extent to which this condition can be used as evidence or as a defense in criminal trials.

This crime bill will be a valuable tool in combating crime in our streets, but we must not turn our backs on the violence in our homes. Domestic violence is taking a terrible toll on society. Women from all walks of life fall prey to this abuse. The National Domestic Hotline stated that 4,000 to 6,000 battered women from across the Nation reach out to them for help each month.

What does this say about the condition of society when women are not even safe in the sanctity of their own homes?

In desperation, some of these women ultimately take the law into their own hands and bring a halt to the torture by going so far as to end the lives of the animals who beat them.

Frankly, Mr. President, I sympathize with these women. The depravity of the abuse to which they are subjected turns my stomach. A recent case in North Carolina involved a woman whose husband had, for over 20 years beat her, forced her to prostitute herself, and treated her as one would treat a dog. Believing that no one could help her, this woman initially attempted to take her own life, and when that failed she emptied a revolver into her husband as he slept.

Our criminal justice system is faced with the dilemma of what to do with these women. Are these women guilty of murder, or perhaps manslaughter? Was their action taken in self-defense? Is there an excuse or justification for their action?

The perplexity of these questions is evidenced by the inconsistent treatment which this defense has received. Two years ago, a woman in Los Angeles was free to go simply because of the battered woman's defense. But in the North Carolina case that I described, the State supreme court refused to accept battered women's syndrome as a defense.

This inconsistency simply can be attributed to a lack of understanding of the complexities of battered women's syndrome.

Thus, this study will not only be an informative tool for Congress, it will be a tool for judges and attorneys everywhere. First, a comprehensive analysis of the medical and psychological testimony will keep trials from disintegrating into battles between the expert medical witnesses of the prosecution and the expert medical witnesses of the defense.

Second, compilation of State and Federal cases will give courts notice of the status and development of this defense.

Third, assessment of battered women's syndrome by judges and attorneys will provide insight into the effect of this evidence or defense on our criminal justice system.

Mr. President, if there is something which can be done to help these women, it must be done. Understanding the plight of battered women is a necessary first step.

Unless there is any objection, I urge adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 402) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized to offer an amendment.

Mr. LEAHY. Mr. President, will the Senator yield to me for 45 seconds?

Mr. SEYMOUR. Yes.

THE RETIREMENT OF JUSTICE THURGOOD MARSHALL

Mr. LEAHY. Mr. President, I will speak further on this matter later on, but like so many, I was dismayed at the news of the retirement of Justice Thurgood Marshall.

I hope in picking his successor the President will not set an ideological litmus test, but rather seek balance in a Court that appears to be moving out of balance, and in doing so reflect the concerns and needs of tens of millions of Americans. This is not the time to pick a Supreme Court Justice based on ideology, but whether to maintain the kind of balance that the Supreme Court needs in a great democracy like ours.

I thank my good friend from California for the courtesy of yielding.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. Thank you, Mr. President.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 403

(Purpose: To amend the definition of "drug paraphernalia" in section 422 of the Controlled Substances Act)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 403.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits intended for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of

any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances or intended for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

Mr. SEYMOUR. Mr. President, this amendment is a very simple one. It adds a few more teeth to our Federal drug paraphernalia laws.

It was in 1986 that Congress enacted legislation targeted to strike at those who make their profit in the drug trade by selling drug paraphernalia. This Federal law was targeted primarily at those products sold to the drug user, such as bongs, ice pipes, or chillers. These objects are tools of the most heinous trade that plagues our society.

My amendment is designed to toughen existing law by expanding the definition of drug paraphernalia so that Federal law enforcement can target a different set of tools—those used by the drug manufacturer. These tools include kits intended to be used for planting, growing, or harvesting illegal drugs, scales and balances intended to be used to weigh or measure illegal drugs, and containers and other objects that can be used to store them.

Mr. President, this amendment will bring Federal drug paraphernalia law in conformity with existing law in California—one of the most tough and effective drug paraphernalia laws in the Nation. At present, there are more than 285 illegal drug labs in California alone—using the paraphernalia that my amendment targets. And if enacted, those who sell, offer, import or export these tools of destruction, these tools of death in California and other States, will feel the full force of Federal law enforcement.

The war on drug trafficking and drug use requires a comprehensive effort, involving every arm of law enforcement. It's not simply cracking down on the producers and users, it is going after others who facilitate, promote, and profit from this heinous trade. With this amendment, we take yet another important step in our effort to make this Nation free of violence, free of fear, free of drugs.

Mr. President, this amendment has the support of the Justice Department and I understand that it has been cleared by both sides.

If that is the case, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 403) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, I thank the distinguished managers of the bill, and I yield the floor.

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

Mr. COCHRAN. Mr. President, will the Senator withhold for just a minute?

Mr. President, may I inquire what is the order? Is there an order now that governs the business of the Senate?

The PRESIDING OFFICER. The order that is now before the Senate indicates that the next amendment must be offered by the Senator from Utah, Senator HATCH.

ORDER OF PROCEDURE

Mr. COCHRAN. Mr. President, I ask unanimous consent to proceed for 2 minutes as if in morning business.

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

Mr. COCHRAN. Mr. President, by the year 2000, all children in America will start school ready to learn. This is the first, and it may be the most important of the six education goals adopted by the Nation's Governors and the President in 1990 to stimulate local, State, and Federal restructuring of education.

The administration and the Congress have demonstrated strong support of Federal programs serving young children in order to help reach this goal. Billions of dollars are allocated each year for these programs, and in fiscal year 1992, we can expect them to receive priority in funding again.

The best known program is probably Head Start—which provides comprehensive early childhood education services so that poor and handicapped children will have a better chance to become healthy and ready for school.

The President's goal is to provide every eligible child the opportunity to enroll in Head Start for at least 1 year prior to school entry. To achieve this level, the President requested in fiscal year 1990 and fiscal year 1991 the two largest one-time funding increases in the history of the Head Start program. We expect a large increase again this year. If this funding increase is adopted it will mean that in the 3-year period since President Bush took office, funding for Head Start will have grown by $1 billion, an 80-percent increase.

Another well-known Federal program and secondary school program which provides disadvantaged children with extra assistance to help them keep up with their peers. It directs over $400 million to almost 500,000 disadvantaged young children.

Another program, Even Start, which the President has supported, provides preschool education for disadvantaged children and basic literacy training for their parents. The administration budgets for 1991 and 1992 would increase appropriations by almost 150 percent and transform this program into a State formula grant authority, ensuring that communities in every State have the opportunity to implement Even Start projects.

There are preschool grants for handicapped children, ages 3 through 5, which serve 400,000 disabled children and another program which supports early intervention services for handicapped children and their families.

Under the authority of the Family Support Act, the President's 1992 budget includes $1 billion, almost double the 1990 appropriation, for the job opportunties and basic skills [JOBS] training programs to help needy families with children obtain education and training so that they can avoid long-term welfare dependence.

The President's 1992 budget recommends allowing States to expand the income range of Medicaid coverage for needy pregnant women and children under 6 years of age to increase access to health care and reduce infant mortality. The Federal Government matches anywhere from 50 to 83 percent of the States' costs.

Included in the list of Federal initiatives are the School Lunch Program, Maternal and Child Health Block Grant, Child Care and Development Block Grants, Aid for Families with Dependent Children, and Supplemental Funding Program for Women, Infants, and Children [WIC] which provides nutrition assistance and education to low-income women, infants, and children up to age five.

In addition, States and local communities are enriching the future of young children through successful programs

of early childhood education in innovative and exciting ways. Recently, the U.S. Department of Education released a study entitled "Working With Families, Promising Programs to Help Parents Support Young Children's Learning." This report examines 17 community-based programs that are working to help low-income families give their children a solid foundation for future growth and learning.

Mr. President, I ask unanimous consent that a summary of this report be printed in the RECORD.

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

[U.S. Department of Education, Office of Planning, Budget, and Evaluation]

WORKING WITH FAMILIES—PROMISING PROGRAMS TO HELP PARENTS SUPPORT YOUNG CHILDREN'S LEARNING

EXECUTIVE SUMMARY

Overview of the Study

The U.S. Department of Education's Office of Planning, Budget and Evaluation commissioned this study to identify and describe promising strategies in family education. Their interest reflects the recognition that family education is a way of strengthening families and improving their capacity to support their children's growth and achievement. Concern with student development and achievement, especially among children in poor families, underlies the need for information on family education practices.

This report presents the results from an in-depth study of promising family education programs that are working with low-income families. The study examines seventeen family education programs selected from a pool of programs identified in a national search as promising and innovative. Each of the programs has some evidence of impact on children or families; in addition, they share other indicators of success—operating for two or more years, being implemented in multiple sites, and having established strong, positive reputations in their communities. The study focuses on a particular category of family education programs: those that work with parents with the primary goal of enhancing children's cognitive development and school-related achievement. Among these programs, we selected those that (1) target families with children between 3 and 8 years of age; (2) target or serve large numbers of low-income families; and (3) are linked with the public schools.

Description of Family Education Programs

The study collected detailed information from seventeen family education programs. Seven programs, which represent a variety of fully implemented models for families of preschool and early elementary students, were studied in-depth through on-site visits. Data collection methods included observations of program activities and interviews with program staff, local school staff, and participating parents. The remaining ten programs, which were examined through telephone interviews with program staff, were also identified as promising models but were less fully implemented or evaluated. Below the seven in-depth sites are briefly described, followed by the programs examined through telephone interviews.

Early Childhood Family Education (ECFE), Minnesota Department of Education

ECFE is a state-funded, center-based program designed for children from birth to kindergarten which operates in more than 300 school districts in Minnesota. The program is available to all families, with the goal of serving hard-to-reach families in proportion to their representation in the community. On average, parents and their children spend two hours a week at centers located in housing projects, low-income apartments, store fronts, and former elementary schools. Classes include parent-child activities supervised by early childhood educators, parent-to-parent discussions facilitated by a parent educator, and children's activities to promote cognitive and motor development.

Home Instruction Program for Preschool Youngsters (HIPPY), Miami, Florida

HIPPY is a home-based program for parents of children four and five years old that is designed to encourage economically or educationally disadvantaged parents to teach their young children school readiness skills at home. The program began in Israel in 1969 and was brought to the United States in 1984. The core HIPPY program consists of home visits every other week, during which the paraprofessional "Parent Partners" work with parents on sequenced activity units that parents complete with their children on a daily basis. Most Parent Partners are graduates of the program. Individual home visits are supplemented by group meetings held on alternate weeks at neighborhood elementary schools. There are 30 lessons for each year structured around key school readiness and cognitive skills such as visual and auditory discrimination, eye-hand coordination, and spatial perception. For each age group, the lessons include reading and discussing nine children's books that are given to families.

Project Home Base, Yakima, Washington

Project Home Base, operated by the Yakima School District as one component of the District's Early Childhood Center, is designed for disadvantaged families with preschool children who have been identified as having developmental delays. The program is an adaptation of the Follow Through Parent Education model developed by Ira Gordon. Parent educators, many of whom are former teachers, make weekly visits to families' homes, working with the parent and child for 45 to 60 minutes. These visits focus on a set of home activities designed to enhance parents' teaching and parenting skills and to develop children's cognitive skills, particularly language and perceptual-motor development. Home visits are supplemented by special events and occasional workshops.

Kenan Trust Family Literacy Project, Louisville, Kentucky

The Kenan Trust Family Literacy Project is a full-day, center-based program for parents and their preschool children. The program is funded primarily through grants from the William R. Kenan, Jr. Charitable Trust of Chapel Hill, North Carolina, and is an adaptation of the PACE (Parent and Child Education) Program developed by the Kentucky Department of Education. The Kenan model builds on four activities: preschool for children; adult basic education for parents; Parents and Children Together (PACT); and Parent Time (PT). Parents and children attend the program together three days a week for a full school day (9 a.m. to 2 p.m.). For three hours in the morning, the children attend a cognitively oriented preschool program based on the High/Scope model, while their parents receive instruction in adult basic education and literacy. For at least 45 minutes a day, the parents and children play together during PACT time, with the adult education and early childhood teachers present to facilitate interaction and learning. While the children nap, parents meet for Parent Time to discuss issues, such as parenting, child development, home activities, and personal care and growth.

Project AHEAD (Accelerating Home Education and Development), Los Angeles, California

Project AHEAD is a parent-to-parent program serving disadvantaged families of children attending schools in the Ten Schools Program of the Los Angeles Unified School District, which have only minority students enrolled and are under court order to receive supplemental services to offset the effects of racial isolation. AHEAD was developed in 1977 by the Martin Luther King Legacy Association (MLKLA) of the Southern Christian Leadership Conference in Los Angeles and currently is operated and funded jointly by the MLKLA and the Los Angeles Unified School District. Project AHEAD's parent educators, indigenous to the community and parents of successful school children, make biweekly home visits and facilitate monthly parent cluster meetings in the schools. The curriculum is based on the work of Dorothy Rich, who subsequently incorporated the ideas into a book entitled "Megaskills." Parent educators introduce home activities that guide parents in helping their children develop critical skills for success ("megaskills"), such as responsibility and self-esteem. In addition, the program works with parents on school-related topics such as reviewing report cards and preparing for parent-teacher conferences.

McAllen Parental Involvement Program, McAllen, Texas

The Parental Involvement Program, operated by the McAllen Independent School District, began with a single parent coordinator funded through Chapter I and now employs five parent involvement coordinators and five community aides funded through a combination of federal and local monies. Three parent involvement activities form the core of the McAllen program: STEP (Systematic Training for Effective Parenting), and its Spanish version PECES, are commercially available curricula to strengthen parenting skills; Evening Study Centers operate two evenings a week in three school sites to offer classes for at risk students and their parents; and group parent meetings on a variety of topics such as health, school curriculum, and child development take place throughout the year at each school in the district.

There also are several broad-based programs and activities in the district that encourage parental participation in their children's education, including a parent contract, a weekly radio talk show, and school volunteer programs. In addition, individual schools choose additional parental involvement projects, such as Project Self-Esteem, lunches for parents and grandparents, and newsletters. Community involvement in public education is facilitated by the Partners in Excellence Program in which local businesses adopt a school and provide materials and in-kind contributions for school activities.

Family Study Institute, Chicago, Illinois

The Family Study Institute (FSI) is a division of the Academic Development Institute, a nonprofit corporation based in Chicago and supported by private grants and donations. FSI has developed two parent education courses, Studying at Home and Reading at Home, designed to be adopted by individual elementary schools and offered on a vol-

untary basis to parents. The courses focus on helping parents establish a home environment that encourages learning and academic achievement, such as setting up a regular time and place for studying, discussing school objectives and assignments at home in family meetings, and participating in family reading activities. Each course consists of three weekly 60- to 90-minute group sessions at a school supplemented by weekly activities that parents do at home. Volunteer parents lead the sessions, guiding small groups of parents through written curriculum materials and facilitating discussions of parents' experiences with the home activities. The course materials are available in English and Spanish, and parent groups are offered in a variety of other languages with the help of parent translators.

Project FIEL (El Paso, Texas) is an intergenerational literacy program that brings limited-English-proficient parents and their kindergarten children together to learn literacy skills. Begun in 1985, the program is administered by the El Paso Community College and operates in eight local elementary schools. Program activities are based on a five-step model that includes informal discussions to encourage oral language, concrete learning experiences to extend oral language usage, story writing, reading books together, and at-home activities.

Prestame una Comadre (Springfield, Illinois), which is Spanish for "loan me a godmother," is an extension of Head Start parent involvement that is targeted on migrant Head Start families indentified as high risk and who have limited English proficiency. Begun in 1984, the program utilizes social workers or "family life trainers" who conduct home visits as often as three times per week to help parents increase self-reliance, learn about child development and educational opportunities in the home, and improve family functioning. Small group meetings are held weekly to discuss topics such as nutrition and family relationships.

PREP (Mascoutah, Illinois) is a program funded by the local school district for children who score poorly on kindergarten screening tests. Four-year-olds and their parents attend classes at a high school once a week for 90 minutes. While the children are in a preschool classroom, parents observe their behavior through a one-way mirror and discuss with a parent educator the skills or concepts involved in the children's activities. Parents also take activities home that teach their children school readiness skills, such as color and shape discrimination, listening skills, and motor coordination.

Syracuse Prekindergarten Program (Syracuse, New York) is an early childhood program for children ages three and four, with active parent participation. The program operates twenty sites in Syracuse and is funded through the New York State Prekindergarten Program was well as local school district monies. The children's program is offered four half-days per week; on the fifth day, parents participate in groups led by a social worker on topics of interest to parents (e.g., discipline, health issues) or in parent-child activities led by an early childhood teacher. Parents also are able to participate in a training program for classroom aides that requires working in the preschool classroom and attending a series of two-hour workshops.

Academia del Pueblo (Kansas City, Missouri) provides aftershool and summer classes to Hispanic children in kindergarten through fourth grade. The program was developed by the National Council of La Raza, which works with community-based organizations to improve education for Hispanic students, and operates at the Guadelupe Center, a multiservice organization in Kansas City. The program for children includes instruction in language arts, reading, and mathematics as well as enrichment activities for two and a half hours twice a week. For parents, the program offers monthly parent groups and classes in reading and family literacy three times per week.

Family Math (sites nationwide) is a program that brings together children in kindergarten through eighth grade and their parents to participate in problemsolving and hands-on math activities to reinforce and complement the school curriculum. The program was developed in 1981 at the Lawrence Hall of Science, University of California at Berkeley, to help children and their parents see mathematics as an enjoyable and active pursuit. Weekly classes lasting about an hour are held in four- to six-week cycles and are taught by teachers and parents who have received training to be Family Math instructors.

Kuban Parent Involvement Program (Phoenix, Arizona) was designed by the school administration and teaching staff to increase parent involvement in school activities and encourage home learning in an inner-city school district where the dropout rate is nearly 65 percent. Teachers run the program for parents of students in kindergarten through third grade. Parents attend quarterly training sessions that focus on the skills students learn in school, classroom objectives, and ways parents can help at home. Teachers also make home visits as needed.

Parents in Touch (Indianapolis, Indiana) is run by the Indianapolis Public Schools and consists of a range of activities to increase parent involvement and improve home-school communication, including activity calendars for children; student/teacher/parent contracts and work folders; dial-a-teacher telephone line available five nights a week to provide help with homework; parent line/communicator where parents can hear a recorded message about school activities; and a series of workshops on parent education. In addition, the district has implemented the Family Math as well as the TIPS-Math and TIPS-Science programs.

TPS-Math (sites nationwide) was developed by researchers at Johns Hopkins University to involve parents in their children's mathematics homework, to increase communication between the home and school about mathematics work, and to improve students' mastery of mathematical skills. The structured materials include information to parents from teachers about classroom activities as well as a set of activities for families to complete at home.

Activity Book and Toy Lending (ABT) Program (Maryland Department of Education) is a set of activities, books, toys, and games that parents of children in preschool through second grade can use to reinforce and extend school learning. The program began in 1980 in Frederick County and is now available to all districts in the state through funding from the Maryland Department of Education. There are two modes of participation: the Club System, where parents sign a contract to work with their children at home and children receive a prescribed kit to take home weekly or biweekly, and the Check-Out System, where parents visit a resource center to take home materials to use with their children.

Summary of Program Characteristics

Not only do these seventeen programs represent a variety of approaches to family education, but most programs also utilize multiple strategies in order to work effectively with families who have very different skills. Four programs use home visits as their core mode of service delivery; three of the four supplement home visits with group parent education and support services. Six programs use parent/child classes as the main parent education activity; four of these also hold parent education and support sessions. Five programs provide parent education primarily through group parent sessions. Each method of working with families offers both advantages and disadvantages:

Home visits confer one set of advantages in terms of establishing an intimate, helping relationship between the parent and a teacher/advisor and providing an opportunity for one-to-one demonstration by the visitor of teaching methods and ways to interact with children; home visits also require relatively few groups social skills.

Joint parent and child classes provide parents with multiple role models through interaction with other parents, and provide the opportunity for staff to observe parent and child together and suggest alternative ways of teaching and interacting in an educational setting; classes do require parents to come to a center or school with their children and become part of a group.

Group parent sessions provide the possibility for parent-to-parent support, group membership, and development of group process skills; however, group sessions may require parents to have the self-confidence to speak up in a group and relate to other adults.

Curricula and instruction also vary across the programs, and there is no evidence that one content or method is most effective or is best for all families. For most of the programs, the parent education curriculum builds on parent/child activities that are intended to encourage positive family interactions and to promote child development and achievement. A subset of programs have a set of predefined parent/child activities with accompanying written materials as the core of the curriculum. For example, HIPPY-Miami follows the curriculum developed by the national HIPPY program which includes 30 sequenced lessons based on key school readiness and cognitive skills. The curriculum for President AHEAD is based on a set of monthly "Appetizers" or home activities linked to Dorothy Rich's "Megaskills." Project Home Base has developed a collection of more than 200 home activities that parents can use to teach their children cognitive concepts and verbal skills. The Family Math program uses hands-on activities to encourage parents and children to work together on mathematics concepts.

These successful programs share a concern about being responsive to differences among families, and this is reflected in their curricula. Programs individualize and adopt curriculum and methods to family needs by providing bilingual staff and materials for non-English speaking families; addressing cultural values that relate to parent involvement in schooling; and being sensitive to crises and changes in the family's home situation that may require immediate attention.

Implementation Principles

The goal of this study was to describe and analyze the strategies that promising family education programs use to recruit disadvantaged families, sustain parent involvement, staff programs, and establish positive relationships with the schools. These topics were

identified by a national advisory panel at the start of the study as key challenges to family education programs. The findings offer guidance for future program development and implementation.

Recruitment

Recruiting disadvantaged families who have had limited or negative involvement with schools is a difficult task for family education programs. Programs that have as their goal to recruit the more isolated or hard-to-reach families have a harder time recruiting than programs with universal eligibility. To motivate and encourage families to participate, these family education programs employ a number of common strategies:

Use a variety of recruitment techniques. The most common recruitment methods are current or former participants recruiting others in their neighborhood; brochures or letters sent home with school children; visits by program staff; door-to-door recruitment; and posters in community locations. Programs imaginatively distribute printed materials. For example, in the Kenan program, flyers and notices are posted at several large employers, in churches, housing projects, gas stations, social service agencies, and kindergarten registration. The Minneapolis ECFE program hangs banners from public buildings, announcing a name and telephone number to call.

Use person-to-person methods to encourage hard-to-reach families to participate. All programs report that the most effective recruitment device is personal contacts, usually from people in the community. Personal contacts are particularly important for parents who have little positive contacts with schools, who are recent immigrants with no previous contacts with American schools, or whose cultural traditions have limited parent involvement in schooling. In Project AHEAD and HIPPY/Miami, recruitment is facilitated by parent educators who live in the community. In programs that do not hire staff from the community, links are made through individuals in schools, churches, housing projects, and community organizations.

Provide information that does not require advanced literacy skills and is available in languages other than English. Brochures describing the programs are available in multiple languages. Furthermore, successful programs build on approaches that are familiar to the cultural groups being recruited, such as Spanish radio programs and neighborhood sound trucks.

Sustaining Family Participation

Once families agree to participate, sustaining their involvement is the next challenge. Family education programs have developed combinations of design components, services, and staffing that encourage continued participation by families:

Maintain flexibility in program operations in order to be responsive to families by meeting parents at a variety of locations and times and accommodating the "temporary dropout" and re-entry of program families. Project AHEAD and HIPPY/Miami both alternate individual home visits and group meetings in schools; ECFE centers include housing projects, low-income apartments, and store fronts.

Emphasize direct benefits for parents, including improved education and employment opportunities. For example, a central focus of the Kenan program is its adult literacy component that helps parents work toward the GED certificate; McAllen offers English language classes; and Project AHEAD encourages parents to attend weekend literacy classes.

Define objectives for parents in concrete and realistic terms, beginning with objectives that can be quickly and easily achieved. Immediate results are particularly important for families who are distrustful of school staff or who have had negative school experiences.

Be responsive to families' multiple needs, either directly or through referrals and personal ties with other public and private agencies. Project Home Base arranges hearing tests and eye exams for participating families. In ECFE and the McAllen program, health information is presented at parent group meetings. Staff in a number of programs refer, and even accompany, families to neighborhood health centers for medical care.

Incorporate tangible rewards for participation, ceremonies and rituals, and products with the program's logo or motto. Many programs use the program name, logo or motto on items such as stickers, balloons, pins, refrigerator magnets, ribbons, pencils, book marks, t-shirts, and coffee mugs. Project AHEAD gives each family a cardboard storage box and study carrel with the program's name and logo. HIPPY/Miami and FSI have graduation ceremonies, and the McAllen program presents certificates of participation for attending at least four STEP/PECES sessions.

Create an environment for parents to develop new friendships and social support, as well as to improve their own self-expression skills. the ECFE and Kenan programs both emphasize the importance of providing parent support groups that are facilitated by project staff.

Staffing

Staff qualifications and characteristics are identified over and over again as critical to high-quality programs. One of the most important staffing decisions is whether staff are professionals or paraprofessionals. Most of these programs employ some paraprofessional staff from the communities being served. A few of the programs use only paraprofessionals to work with families. Programs reflect the following staffing principles:

Recognize the value of hiring paraprofessional staff and community members who share the culture of the target population and are able to establish mutually respectful and trusting relationships with parents. McAllen and Prestame una Comadre employ professional staff who are native to the community; HIPPY/Miami and Project AHEAD hire paraprofessionals from the community to serve as home visitors. A number of programs employ paraprofessional aides in preschool classrooms.

Enlist school staff to help operate the program, particularly in programs for families of elementary school students. The districtwide parent involvement programs—McAllen and Parents in Touch—were developed by district staff and use district teachers to lead some of the family education activities. The Kuban and TIPS-Math programs depend on school teaching staff for program implementation.

Utilize paid staff to a greater extent than volunteers. In general, few programs depend on volunteers as primary teaching staff. Two exceptions are the FSI courses and the Maryland ABT programs. FSI depends entirely on unpaid parent volunteers to lead the parent group sessions; the ABT program utilizes the district Chapter 1 liaison and parent volunteers.

Provide training for staff and the opportunity for ongoing, frequent staff communication. All programs conduct regular inservice training, either weekly or biweekly, as well as more intensive training at the beginning of each year.

Relationships with Schools

The involvement of schools in family education programs is a major development in the field, which offers certain benefits both for the programs and the schools. Advantages of the collaboration include:

Access to school resources, such as federal funding, administrative support, and in-kind donation of space and facilities.

Connecting with families, particularly in areas where the schools have a more positive image than other social service agencies, may increase parents' acceptance of the program and also lead to greater understanding by school staff of parents' attitudes and behavior. For example, in Project FIEL, staff report that program retention is higher in sites located at schools rather than separate centers because school staff encourage participation in the family education program. In HIPPY/Miami and McAllen, the fact that the parent educators work for the school district gives them more credibility and respect among families.

Linking homes and classroom instruction through parent group meetings and, less frequently, through home visits. TIPS-Math and Family Math were created to extend classroom instruction to family learning experiences. In Project AHEAD, parent educators review student report cards with parents and prepare them for parent-teacher conferences.

Providing activities to ease the transition from early childhood programs to kindergarten. For example, HIPPY/Miami staff bring children into kindergarten classrooms in the spring prior to school entry; ECFE is beginning to do the same in some districts.

In general, collaborations with school disricts occur at the administrative level rather than the classroom level; close ties between the programs and classroom teachers are difficult to build. Other challenges that family education programs face in collaborating with schools include accommodating adults and very young children as students, sharing space and facilities, and adhering to district personnel regulations. To facilitate collaboration with the public schools, these programs:

Stress that family education is a complementary, not competing district goal. For example, FSI staff make it clear to teachers that their parent groups are intended to help parents create a structured environment for learning that can be applied to any subject area, and not to teach content-specific material.

Build support for the program from district and school administrators. In the Kenan program, school principals are involved in hiring project staff; in McAllen, parent involvement is a districtwide goal and one criterion for staff evaluations.

Acknowledge that the location of both the administrative offices and program activities make a difference in terms of district integration and support. When program staff and activities are located within the main school or district space, programs seem to be better connected with other district programs than when housed in satellite space.

Establishing Program Effects

With limited resources, programs typically collect information to document program activities and to indicate areas for program

improvement. Few family education programs studied have carried out summative evaluations with rigorous, experimental designs. More extensive and rigorous evaluation research, which is badly needed in the field, will have to come from the wider research community rather than from the programs themselves.

The programs in the study, nevertheless, offer strong evidence that their approaches can be successfully implemented in sites other than where they were developed. Program experiences suggest some factors involved in successful transfer: an administrative organization or agency to provide technical assistance and staff training; adequate funding for program adoption; and well-developed curriculum materials.

Future Issues and Challenges for Family Education

Discussions with program directors identified a number of future issues and challenges for family education: developing stable funding both for program operations and for summative evaluation; designing training for paraprofessional staff; training school staff to work more closely and productively with disadvantaged and multicultural families; integrating family education programs into the existing K-12 curriculum in schools; and adapting to changing demographic trends.

While the seventeen promising programs studied are only a subset of the many family education programs currently being implemented, including other strong models, they offer examples of how family education can be provided to diverse populations in a variety of settings. Examination of their implementation has provided rich information on principles of practice that are shared by successful programs. As the interest in family education, family involvement, and family-school cooperation grows, this information can provide a foundation for developing family education initiatives.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator is informed there is a unanimous-consent request pending that the next amendment must be offered by the Senator from Utah [Mr. HATCH].

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 5 minutes to speak on a subject related to the crime bill.

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

Mr. GRASSLEY. Mr. President, 2 days ago the Senate adopted my amendment requiring courts in capital cases to consider a victim impact statement. I thank Senator BIDEN for his cooperation on accepting that amendment and getting it adopted under certain caveats that were legitimate and appreciated by both sides of the aisle.

In regard to that amendment, this is one occasion, Mr. President, when we in the Senate were actually ahead of the curve, because this very day the Supreme Court held that victim impact evidence is admissible in a sentencing phase of a capital case.

I am gratified by the Court's 6-to-3 decision in Payne versus Tennessee. But, more important, the victims of heinous crimes and their families can no longer be silenced. Now, there will be some element of parity in the sentencing phase of a death penalty case—mitigating evidence about the defendant and evidence from the prosecution about the victim and the impact of the crime on the family. Justice Rehnquist's opinion states the Court's view clearly:

> A State may properly concluded that for the jury to assess meaningfully the defendant's moral culpability and blameworthiness, it should have before it * * * evidence of the specific harm caused by the defendant.

The High Court acknowledged that its previous decisions in Booth versus Maryland, 1987 and South Carolina versus Gathers were wrongly decided. And my amendment adopted on Tuesday, I am pleased to say, is thoroughly consistent with the Supreme Court's decision today in Payne. A victim impact statement in a Federal capital case will contain information about the victim, the extent and scope of the injury and loss suffered by the victim and family, as well as information about any treatment for the victim and family.

A victim impact statement is designed, as the Court noted, "to show * * * each victim's uniqueness as an individual human being. * * *" And there is nothing unfair about the admission of such evidence. In her concurring opinion, Justice O'Connor eloquently offered the rationale for victim impact evidence:

> It transforms a living person with hopes, dreams, and fears into a corpse, thereby taking away all that is special and unique about the person. The Constitution does not preclude a State from deciding to give some of that back.

Our responsibility, Mr. President, is to do what Justice O'Connor says—give some of the victim's personal qualities back to society and the family. No, we cannot replace the life, but we can restore some balance to our criminal justice system. Allowing victim impact evidence is one step in that direction.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, we are waiting for Senator HATCH who is next on the list.

At this moment, I ask unanimous consent that nothing else be in order until we dispose of the Hatch amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 404

(Purpose: To amend title 18, United States Code, to impose criminal sanctions for violation of software copyright)

Mr. SEYMOUR. Mr. President, on behalf of Senator HATCH, I call up amendment No. 404.

The PRESIDING OFFICER. That is in order.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. HATCH, proposes an amendment number 404.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by striking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by striking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

Mr. HATCH. Mr. President, my amendment is the same as S. 893, which I introduced earlier this year, with good friend from Arizona, Senator DECONCINI as an original cosponsor. I believe that this amendment will be a strong tool for prosecutors and others who are interested in deterring the growing problem of computer software piracy.

In 1982, Congress provided strong criminal penalties for persons involved in the unauthorized production or distribution of multiple copies of phonorecords, sound recordings, and motion pictures. Likewise, this legislation would provide the same enhanced criminal sanctions for the violation of copyright in computer programs.

The willful infringement of copyright in computer software programs is a widespread practice that is threatening the U.S. software industry. The easy accessibility of computer programs distributed in magnetic media format, together with distribution of popular applications programs, has led to persistent large-scale copying of these programs. Studies indicate that for every authorized copy of software programs in circulation, there is an illegal copy also in circulation. Losses to the personal computer software industry from all illegal copying were estimated to be $1.6 billion in 1989. If we do not address the piracy of these programs, we may soon see a decline in this vibrant and important sector of our economy.

Not only is the software industry seriously damaged, but the public is also victimized by these acts of piracy. The consumer is paying full price for a product which he believes is legitimate. However, not only may there be imperfections in the actual reproduction, but the quality of the product is often lower as a result of cheap equipment. Furthermore, the consumer is ineligible for the important support and backup services typically offered by the software publisher.

As was noted during the hearings on increasing the penalties for illegal copying of records, sound recordings, and motion pictures, stiffer penalties toward piracy do act as a deterrent to these types of crimes. Enhanced penalties for large-scale violation of software copyright would be more in line with the seriousness of the crime.

Currently there is no differentiation in penalties between small and large acts of piracy. Because acts of software piracy are only misdemeanors for the first offense, prosecutors are deterred from prosecuting, and there is little deterrence for these criminal acts. The penalties in these software cases are far too lenient as compared to other theft and forgery statutes for other schemes which are also very lucrative.

Under the language of this amendment, a person involved in software piracy would be subject to a fine of up to $250,000 and imprisonment of up to 5 years if the offense involves the reproduction or distribution of at least 50 copies in 1 or more computer programs during any 180 day period. For offenses involving more than 10 but less than 50 copies, the penalties would include a fine of up to $250,000 or imprisonment of up to 2 years.

Mr. President, I believe that this legislation is seriously overdue. We must act now to protect this important industry by accepting my amendment as a key provision of the pending crime bill.

The PRESIDING OFFICER. Is there further discussion?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 404) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, on behalf of the managers, I ask unanimous consent that the following list of first-degree amendments, which I send to the desk, be considered in the order of their sponsor's arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments except for those which the two managers have cleared for consideration.

The PRESIDING OFFICER. Hearing no objection, that is the order.

AMENDMENT NO. 405

(Purpose: To amend chapter 1 of title 18, United States Code, to establish a penalty for inducing a minor to commit a crime)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], proposes an amendment numbered 405.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

TITLE —CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 02. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 03. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

Mr. SEYMOUR. Mr. President, my amendment is very simple. It sends a strong and straightforward message to dangerous criminals: Use a kid, go to prison.

That is it.

Of course, as my colleagues know, Federal law already provides for penalties if drug kingpins and traffickers enlist young Americans to engage in this heinous trade. My amendment does not change this provision one bit.

But it's almost naive to think that the drug trade is limited to simply selling drugs on a street corner, or in a school or park. Drugs are about ruthless gangs, guns, drive-by shootings, and other forms of naked violence.

And it is equally untrue to think that drug-related activity represents

the only criminal activity in which adults exploit our kids. Recently, the San Francisco Examiner reported on the growing threat of Vietnamese youth gangs, with members as young as 11 years old, terrorizing northern California communities with late-night invasions to steal cash and other valuables. Law enforcement authorities told the Examiner that many of these young kids are already being recruited as foot soldiers by adults with more expansive organized crime activities, such as gambling, money laundering, and extortion.

Sadly, rather than being recruited for football or the debating team, young kids are being encouraged to join different kinds of teams—teams who believe that the best offense is a good terrorist who can beat the competition with the plunge of a knife or the squeeze of a trigger.

Those who recruit them, induce them, and coerce them must be held accountable. They must pay and pay dearly.

And pay they will if my amendment is adopted. If an adult uses any kid to commit any Federal crime, he can expect to face a maximum 10-year sentence in addition to other sentences that might be levied against him. But just as important, this new provision is not dependent on a crime actually being committed by the minor. A minor who is being forced to commit a crime and fears for his safety, his life, or the life of his family can come forward and know that the law will be on his side.

Kids are our most valuable, our most precious human resource. We have heard the old axiom that children represent the promise of tomorrow. But in too many cases, criminals see kids as a promise of future crimes committed.

Mr. President, this amendment represents our resolve to honor our promise to our kids, to our families, to our communities. And it sends an equally strong message to the criminals of this Nation: "You use a kid, you go to prison." I urge my colleagues to join with me to send that message to these thugs and keep our promise to our kids.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 405) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 406

(Purpose: To amend the definition of "serious drug offense" in section 924 of title 18, United States Code)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 406.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 154, between lines 4 and 5, insert the following:

SEC. 1246. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) striking "or" at the end of clause (ii);

(2) adding "or" at the end of clause (iii); and

(3) adding at the end thereof the following new clause:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

Mr. SEYMOUR. Mr. President, the amendment that I have offered is a simple amendment. If adopted, it will take up a modest portion of this mammoth legislation, but it is an amendment that will have a major impact on violent career criminals.

We have a tough law on the books that we call the Armed Career Criminals Act. It says that if you are arrested in violation of Federal firearms laws and you have three previous convictions for a violent felony or serious drug offense, Federal or State, you can expect a minimum 15-years at least in prison. End of story. That is it.

But this story does not always have a happy ending. The current law defines a serious drug offense as one which, under either State or Federal law, carries a maximum sentence of 10 years. But there are some States, like my State of California, where a serious drug offense carries only a maximum sentence of 5 years, even though the same crime, under Federal law, carries a maximum sentence of 10 years.

For example, Mr. President, we have in California an armed career thug named Alfred Ethridge. He was picked up for a Federal firearms violation. His record revealed that he had two prior Federal felony convictions—each carried a maximum of 10 years. But he also was convicted five times in violation of State drug offenses—offenses that if tried under Federal law would each carry a maximum prison sentence of 10 years or more. But under California law, the maximum penalty for these five offenses is only 5 years.

In short, Mr. President, we have a violent career criminal with seven serious offenses on his record. But he avoids conviction under our armed career criminal statute only because of a low State sentence. He avoids at least 15 years in prison. So instead of roaming the halls of Lompoc Federal Prison, he will return to the streets to continue his criminal career and his avoidance of justice.

Now this is only one example. But, Mr. President, I have been told by the U.S. attorney's office in Los Angeles that there are hundreds of similar cases—hundreds of Alfred Ethridges who avoid the full force of Federal law.

I propose a simple revision, one which states that if a criminal violates a State drug law and if that violation would carry a maximum sentence of 10 years if prosecuted under Federal law, that qualifies as a serious drug offense under the armed career criminal statute. With this modest revision, we can bring the full force of justice down on the Alfred Ethridges, the criminals who continue to commit heinous crimes at the drop of a hat.

The purpose of the crime bill we have before us is to help State and local law enforcement—those on the front lines in our war against violent crime—to scrape the scum off our streets and stick them in prison. They feed on us and violate the freedoms of our families and our children. They are career criminals—ranging from the violent felon to the major volume drug trafficker—and they pollute our communities. Well, it is time we clean up our communities and put these criminals down—and put them down hard.

The people of our Nation are tired and frustrated. Our law enforcement officers are tired and frustrated. And frankly, Mr. President, so am I. The people want action and my amendment takes that action. It is plain and simple; if you violate a Federal firearms law and we find that you are found to have three serious violent felonies or drug convictions, Federal or State, you do at least 15 years.

In short, Mr. President, this amendment will ensure that the armed career criminal becomes the unarmed career prisoner.

I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 406) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 407

(Purpose: To mandate life imprisonment without release for drug traffickers or violent criminals convicted for a third offense)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 407.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

Mr. GRAMM. Mr. President, I call this amendment the three-time loser rule. Unfortunately in our society, the 10-time loser and the 15-time loser and the 20-time loser are walking around the streets of Washington, DC; and Houston, TX; and Dallas, TX; and Las Vegas, NV; and all over the country.

I gave a speech the other day here on the floor, as we started debate. I am not going to bore the Senate with that full speech again. But there is part of it I want to reiterate because it has to do with why I am for this amendment and why I think Members on both sides of the aisle have decided to accept the amendment.

We have crime without punishment in America. As a result, we have a lot of crime in America.

A remarkable study was done last year by Dr. Morgan Reynolds, who did a study for the National Center for Policy Analysis. What Dr. Reynolds did was collect data on crimes beginning in 1950 and running through 1990. He tried to calculate the expected punishment that would be handed out in prison time for committing various crimes. What he did is take the data on the number of crimes that were reported, the number of crimes that surveys showed were committed but not reported, the number of arrests, the number of indictments, the number of convictions, the prison sentences handed out, and the prison sentences actually served. And he found, Mr. President, that since 1950, the expected cost of serving time in jail for various serious crimes in America has declined by 67 percent. During that same period the number of serious crimes committed has risen by 700 percent.

His data for 1988, which is the last year he has full data on, is pretty startling. Basically, what it says is if you take into account arrest, indictment, conviction, sentencing, and sentences actually served, a person in America who commits murder can expect on average to serve 2.3 years in prison.

A person who commits burglary can expect to serve 17.7 days. A person who commits car theft, when you take into account the probability to arrest, indictment, conviction, and sentencing will expect to serve 4.2 days. Is it any wonder that so many people are out there waiting to steal our car?

The amendment that I have sent to the desk is very simple. It says that when you are convicted of any combination of a violent crime or a drug felony a total of three times, you get mandatory life in prison without parole.

I know, Mr. President, that there are a lot of people who say, "boy, that is tough sentencing." But I think it is important when we look at the facts and note that in a study done looking at 1983 and 1989, that study concluded that of all of the people released from prison in 1983, that 5 years later 62.5 percent of them had been rearrested for another crime.

Mr. President, when you think about the number of people who had originally committed violent crimes and drug felonies in that group that had not been rearrested, I think the odds are very high that as many as 75 percent of those people who had been let out of prison within 5 years had probably committed a felony again. Needless to say, this provision would end that with three-time losers put in prison and kept there for the remainder of their life.

Mr. President, I am not sure what procedure we are following on these amendments. It has been accepted by both sides.

I yield the floor on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 408

(Purpose: To protect the public safety by imposing minimum, mandatory prison sentences for drug crimes involving minors)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 408.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall

not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such shall not be released during the term of such sentence.".

Mr. GRAMM. Mr. President, this amendment is very simple. It says if you are an adult and you sell drugs to a minor and you are arrested, indicted, and convicted that you are going to serve every day of 10 years in prison without parole, no matter who your daddy is, and no matter how society has done you wrong; if you sell drugs to a child and are convicted, you are going to serve 10 years in prison. And if you get out of prison and do it again, we are going to lock you away for life.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 408) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, let me just say that I did not ask for a rollcall vote because we have strong support on both sides of the aisle. I assume each of these amendments would have gotten 90 plus votes. I believe this kind of get tough attitude is needed, and I am hopeful these two provisions will be not only in the bill that passes the Senate when we are through, but will be ultimately in the bill that will be signed into law by the President.

I yield the floor.

AMENDMENT NO. 409

(Purpose: To require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 490.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following:

TITLE .—CHILD ABUSER REGISTRATION

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 02. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

SEC. 03. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 04. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 05. REPORTING BY THE STATES.

(a) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository;

(B) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse; and

(C) direct access to the information repository shall only be available to State and Federal law enforcement officials.

SEC. 06. CONDITION ON GRANTS.

Compliance with section 05 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

Mr. McCONNELL. Mr. President, during the 3 minutes I rise to address the Senate, 14 young people will be physically abused in this country. Since this time yesterday, 1,200 boys and girls have been sexually abused. Child abuse: It has been called the American shame. We should be ashamed, and we should be outraged. American children are easy prey for sexual molestors. Children are such easy targets for these sexual predators, but the typical offender will molest 117 youngsters. That is 117 young victims, Mr. President.

On April 23 of this year, Richard E. Howard, of the State of Washington was arrested for molesting nearly 200 children. Howard's victims were not confined, however, to Washington State. His reign of terror included Oregon, Montana, Idaho, and California. His first conviction was in 1969.

In 1985, a Maryland school psychologist was convicted of child molesta-

tion. He served his time and then he moved to Virginia, less than 100 miles away. He was hired once again as a school psychologist—6 months later, he was arrested by Virginia officials and charged with the molestation of 15 elementary school students. As a part of the elementary school's explanation to the parents of how something like this could have happened, it was pointed out that the school had no means of conducting a criminal background check on prospective employees. Thus, they had no idea that this individual had been convicted of child molestation in Maryland less than 1 year earlier.

As I mentioned, Mr. President, according to the National Institute of Mental Health, the typical child sexual offender will molest an average of 117 youngsters in his or her lifetime and garner multiple criminal convictions from several different States. That is why I have risen today to offer an amendment that would require the registration of all convicted child abusers and child sexual offenders at the National Crime Information Center, NCIC, of the Department of Justice.

By requiring States to register the names and other pertinent information about convicted child abusers, we will be able to clamp down on repeat offenders by having information available and easily accessible to every child organization in the United States. Having child abuser information available will enable these organizations to conduct background checks on prospective employees.

Mr. President, here is how the legislation would work. Once a criminal conviction is handed down by a court of law, the information about the convicted individual is entered into the National Crime Information Center computer network by local or State law enforcement officials.

The information is then on line and available to any agency authorized by the Department of Justice. Such agencies include police departments, State health and human service divisions, and certain offices within the Department of Justice. For instance, a local child care center is about to employ a new individual and would like to confirm that the potential employee does not have a criminal history of child abuse. That child care center can go to their police department with a signed consent form from the prospective employee and request a criminal background check. It is simple, straightforward and effective.

Mr. President, we must act to prevent child abuse. I urge my colleagues to join me in safeguarding the lives of America's children by supporting this measure.

I say, Mr. President, this amendment has been accepted, it is my understanding, by both sides of the aisle.

I have no further observations to make on this amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there further debate?

The Senator from Delaware.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, I ask unanimous consent that we temporarily lay aside the McConnell amendment and proceed to the Sanford amendment, and on the disposition of the Sanford amendment, which will be accepted on both sides, we immediately return to the McConnell amendment.

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

Mr. SANFORD. Mr. President, I had a conversation a month or so ago with the present Governor of North Carolina, and I said to him just in the way of conversation, is it not striking that the prison population in North Carolina has doubled since I was Governor? Now, that would have been about 25 years ago. He said, "oh, no; not since you were Governor. It's doubled since I became Governor."

And so we have seen a very rapid expansion of prison population, not only in North Carolina but across the Nation, in the last period of a little more than a decade.

We also have to be distressed to know that in the United States our crime rate is the greatest of any nation in the industrialized world.

AMENDMENT NO. 410

(Purpose: To amend section 1902 of S. 1241 to require the Commission on Crime and Violence to make a comprehensive study of the economic and social factors contributing to crime)

Mr. SANFORD. Mr. President, I send forward right now an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 410:

Section 1902 is amended by adding at the end thereof a new paragraph:

"(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it."

Mr. SANFORD. Mr. President, this amendment requires the Commission on Crime and Violence as established in the Biden bill to undertake a comprehensive study of the economic and social factors contributing to crime.

As we all know the crime rate and the number of crimes committed rose to a record high in 1990. For that matter, the prison population has also risen, doubling in the last decade. Clearly the substantial expansion of the criminal justice system has failed to solve the problem.

We all want to crack down on crime, but all that has been done—increases in arrests and prosecutions, the imposition of mandatory sentences, the increase in the number of criminal justice personnel, and the increase in the tax dollars flowing out to address the crime problem—has brought little, if any, improvement.

Mr. President, as I looked at and studied this crime bill, I approved of a great many of the provisions, and perhaps would have voted for all of them, but I was bothered by the fact that we kept getting tougher on crime without looking at some of the basic problems of why we have such a rapid increase in prison populations and in crime. It seemed to me it was time for us to look at the broader problems.

The American people do not feel safer in their homes. They do not feel safer on our streets and in our communities.

Unfortunately, criminal enforcement solutions are not enough. We must look to the larger context of society for the answers to this very tough problem. Certainly law enforcement approaches are important but so too are efforts to reduce the likelihood of entry into the criminal justice system in the first place. By asking for this kind of study, this amendment takes the next step beyond the efforts articulated in the bill now before the Senate.

I could have set up a separate commission to look at the root causes of crime, but I found in the Biden bill the Commission on Crime and Violence established to study some of the aspects of criminal law enforcement. It occurred to me that instead of setting up a different commission, we should add to its responsibilities; ask this Commission to take a look in a comprehensive way at the economic and the social factors contributing to this unprecedented crime wave that we are suffering in the United States.

My amendment directs the Commission to address the roots of crime—the social and economic factors that lead to or contribute to crime. Why is our crime rate the greatest in the industrialized world? Why do we have more people in jail than any civilized nation?

I hope we can get this in the bill when it goes to conference. I hope that this expansion of the responsibilities of the Commission already created by the bill will serve to remind us that we cannot just go on punishing crime, though punish we must.

We need now to look at the underlying causes and remind ourselves that, without doubt, there are many things we can do to reduce the crime rate. Certainly, we can take steps to assist

in the rehabilitation of prisoners. We need to give more attention to that.

Upon the conclusion of the study, it is requested that specific proposals be made for legislative and administrative actions to reduce crime and the elements that contribute to it.

Ending the epidemic of violence and crime in America will take many steps. The Biden bill is an important step and I believe the study contemplated by this amendment will help us to take yet another step.

Thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER. Is there debate on the amendment? The Senator from Delaware.

Mr. BIDEN. Mr. President, we think it is a very good amendment, a very positive contribution, and we accept it. I understand that my Republican colleagues, as well, have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 410) was agreed to.

Mr. BIDEN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, with the indulgence of my friend from Kentucky, I ask unanimous consent that our friend from Illinois be able to proceed for 3 minutes as if in morning business to pay tribute to Justice Marshall.

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

JUSTICE THURGOOD MARSHALL

Mr. SIMON. Mr. President, I simply want to join those who are paying tribute to Justice Thurgood Marshall. Justice Marshall has been a tower of strength for basic civil liberties on the U.S. Supreme Court, and his loss will be felt. There are those on the Court who have responded to the wishes and the whims of the power, but Justice Thurgood Marshall has been there, responding like a Rock of Gibraltar to those least fortunate in our society.

This Nation has been served very well by Justice Thurgood Marshall. While we all understand his desire to retire at the age of 83 and to enjoy life a little more, we are grateful for the contribution that he has made.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of Senate Joint Resolution 170 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

YUGOSLAVIA

Mr. DOLE. Mr. President, with reference to Yugoslavia, I think it is, at this point, a tinder box.

On Tuesday of this week, the Democratic Republics of Croatia and Slovenia declared their independence from Yugoslavia. The parliaments of Slovenia and Croatia issued these declarations in response to referendums on sovereignty which were held in each Republic—referendums in which over 90 percent of the citizens in the Republics of Slovenia and Croatia voted for independence.

It appears that these declarations of independence are more declaratory in nature, than an accurate reflection of the reality of the two Republics' status vis-a-vis the rest of Yugoslavia. These declarations do not constitute acts of secession. In a letter to Secretary of State Baker, the President of the Republic of Croatia stated:

> We remain united and determined to gain full liberty, not by secession, but by decentralized confederation.

Nevertheless, these declarations have led to speculation and fear about the course of events in Yugoslavia. I, too, am watching news reports closely with the hope that incidents of violence will not spread or escalate.

Some say that by announcing their independence, Croatia and Slovenia are triggering violence throughout Yugoslavia.

I think we need to ask, "who has their finger on the trigger?" And I think the answer is clear: It is not Slovenia, not Croatia, but the Yugoslav Army and the hardliners in the central government.

In response to these declarations of independence, the Federal Assembly of Yugoslavia—which I remind my colleagues is made up of unelected, Communist holdovers—called on the Yugoslav Army to take matters into its own hands. And today, the central government wants to discuss instituting a so-called state of emergency, in other words, martial law.

News reports indicate that the Yugoslav Army is on combat alert, and is moving tanks, airplanes, and troops throughout Slovenia and Croatia. The Slovenian side of the border with Austria has been blocked and closed by the Yugoslav Army, and the airport outside Ljubljana has been closed—apparently so that the army can move in reinforcements.

This move by the central government and army to respond to political differences with intimidation and force is what should really concern us—these tactics can hardly facilitate peaceful and democratic dialog.

The United States needs to maintain a firm stand against the use of force by the Yugoslav Army to resolve the situation to its liking.

I remain hopeful that a peaceful settlement of the situation can be achieved. The Governments of Croatia and Slovenia have clearly indicated that they wish negotiations and dialog to continue with the other republics and that they reject the use of force. We need to support this process of negotiation.

Moreover, we need to press the hardline Serbian Government to stop blocking the rotation of the federal presidency. Because of Serbia's obstructionist tactics, Yugoslavia has been without a president or a commander in chief of the Yugoslav Army for the past 6 weeks.

There is no doubt that the repressive and antidemocratic policies of Serbian President Slobodan Milosevic are at the heart of many of Yugoslavia's problems—problems which the Croatians and Slovenians, through their declarations of independence, want to leave behind.

Mr. President, I don't have any solutions to offer with respect to the situation in Yugoslavia. But, placing increased pressure on those like Milosevic who are putting up roadblocks to democracy and dialog—and who advocate the use of force—would, in my view, help to facilitate a peaceful settlement among the Republics of Yugoslavia.

I point out that sometime before the day ends, there will be a bipartisan resolution with reference to the problems right now in Yugoslavia, calling on negotiations, calling on the Army to not use force or violence in dealing with the various Republics.

It is my understanding that resolution has just about cleared both sides of the aisle. It is my hope we can pass it as quickly as possible because I think we need to send a message—that is not much, but it is at least an indication—to the hard line leaders in the central government of how this Senate and Congress feel about the situation.

Mr. BIDEN. Mr. President, parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. We are.

Mr. BIDEN. I ask unanimous consent that we go out of morning business and back to the bill.

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 411

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

The PRESIDING OFFICER. The Chair wishes to make a clarification. In order for the matter of the Senator from Delaware to be in order, the amendment of the Senator from Kentucky needs to be once again laid aside.

Mr. BIDEN. Valid point, Mr. President.

I ask unanimous consent that the amendment of the Senator from Kentucky be further laid aside until the completion of action on the amendment I send to the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. THURMOND, proposes an amendment numbered 411.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3. ROVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

Mr. BIDEN. Mr. President, these are technical changes of the Sentencing Commission, introduced last year by Senator THURMOND and myself, clarifying the recommendations of the U.S. Sentencing Commission. It has been cleared on both sides.

Mr. THURMOND. Mr. President, I rise to urge my colleagues to support this important amendment which will implement various technical and clarifying proposals related to the revocation of supervised release and probation. This important measure passed as a bill, S. 188, earlier this year and was cosponsored by Senator BIDEN and Senator KENNEDY. These proposals were suggested to me by the U.S. Sentencing Commission with the desire that they might be promptly enacted so that the supervised release component of sentences will function as Congress intended.

Regarding the history of the U.S. Sentencing Commission, in 1984, I worked with Senator BIDEN, Senator KENNEDY, and other colleagues on the Judiciary Committee and in the Senate to formulate the Sentencing Reform Act which was enacted into law as part of the Comprehensive Crime Control Act of 1984. The Sentencing Reform Act focused on two major problems in the Federal criminal justice system: First, the disparity in sentences imposed on individuals convicted of similar crimes, and second, the actual time served by those convicted of crimes which was often much less than the sentence imposed. In an effort to address these problems, the Sentencing Reform Act created the U.S. Sentencing Commission. Its purpose is to formulate guidelines to be used by judges in the sentencing process. As a result of the Commission's efforts, people now convicted of similar crimes will serve similar sentences and the sentences imposed will reflect the actual time that must be served.

Despite the success of the Sentencing Commission and its guidelines, steps must be taken to ensure that it is free to carry out its duties and responsibilities. The legislation I am introducing today will enhance the Commission's ability to carry out its mandate.

Briefly, this legislation would make the following changes to current law. First, it would clarify that Federal courts retain the flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. This measure would also grant the Sentencing Commission greater flexibility in drafting sentencing guidelines for the sanctioning of offenders who, while on supervised release, are found in possession of a controlled substance. This greater flexibility will enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the Sentencing Reform Act was intended to cover.

Finally, this amendment provides that decisions to revoke supervised release should be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose. The effect of this change would be to settle a split among the Federal courts on the issue of whether the guidelines applicable to initial sentencing of defendants also apply to probation revocation decisions.

In closing, the technical changes embodied in this legislation are consistent with original congressional intent under the Sentencing Reform Act. I believe this legislation will further the goals of the Sentencing Reform Act to provide uniformity in sentencing as well as assure that sentences will be served in their entirety.

For these reasons, I strongly urge my colleagues to support this important measure.

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

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

If not, the question is on agreeing to the amendment.

The amendment (No. 411) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 409

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Kentucky.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. 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. McCONNELL. Mr. President, I urge adoption of the pending McConnell amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 409) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. 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. BRYAN. I thank the Chair, and I also thank my colleague and good friend from our sister State to the south, the senior Senator from Arizona [Mr. DECONCINI], for allowing me to proceed first because I know he has another matter that he wants to present to the floor.

AMENDMENT NO. 412

(Purpose: To strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with a telephone, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. McCAIN, proposes an amendment numbered 412.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 01. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 02. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State'

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives call initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 03. TELEMARKETING RULES.

(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT OR STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 04. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to

believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OR PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 05. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 06. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 07. SUBPOENA.

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commision Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 08. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by in-

serting "services," immediately after "devices," each place it appears.

SEC. 09. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquires made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquires respecting persons engaged in telemarketing or direct such inquires to the appropriate Federal or State agency.

SEC. 10. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1979 (12 U.S.C. 3409(a)(3)) if amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reasons of having been obtained in violation of law; or".

SEC. 11. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 12. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 04 and 05 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 89a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 89a-2(a)(36)).

SEC. 13. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 14. SUNSET.

The provisions of sections 03, 04, and 05 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

Mr. BRYAN. Mr. President, I ask unanimous consent, if it does not appear, that Senator MCCAIN'S name be added as an original cosponsor to the amendment.

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

Mr. BRYAN. Mr. President, this amendment addresses the important issue of consumer fraud, and particularly fraud carried out through use of the telephone. The amendment is the text of S. 2494, which was reported by the Commerce Committee without objection and passed the Senate by unanimous consent in the 101st Congress, with one clarifying addition to specifically include credit card laundering in the definition of telemarketing fraud.

Time did not permit the conferencing of this legislation with the House in the last Congress. Consumers continue to suffer from the practices addressed by this legislation, and the legislation must be processed at the earliest possible opportunity. As we work to enhance enforcement of the criminal laws it is appropriate to enhance the enforcement of the civil penalties against telemarketing fraud, as my amendment does.

As we all know, telephone sales are increasingly being used, both by legitimate businesses for consumer convenience, and by bad actors who are out to defraud and harass the consumer. Over $100 billion in sales are estimated to be made by telephone each year. And, unfortunately, estimates of the annual cost of fraudulent telephone sales are in the $1 billion range.

No one knows this better than the citizens of my own State of Nevada. The Senate Consumer Subcommittee, which I chair, held its first hearing on this issue, focused on penny stock fraud, in Las Vegas more than a year ago, and heard memorable testimony from consumers about fraudulent schemes that have victimized constituents in my State. In fact, it is fair to say that during the 1980's, fraudulent telemarketing "boiler rooms" were a growth industry in Nevada. The State's consumer affairs division has records of over 15,000 written complaints and over 66,000 telephone inquiries from consumers concerned about such fraud. It is estimated that Nevada consumers lost about $8 million between 1984 and 1989 because of telemarketing schemes.

The State government, together with the Federal strike force, has done an admirable job in attempting to deal with this overwhelming problem. The

"boiler room" industry has gone into sharp decline, from 400 telemarketing firms with 20,000 employees in 1988 to 60 operations with 5,000 salespeople in 1989. The State has enacted creative and effective legislation to address this problem, requiring licensing of telemarketers and establishing tough antifraud provisions in the securities area, which I was pleased to sign into law when I served as Governor.

Despite these efforts, the problem has not been eliminated either in Nevada or in the rest of the country. The amendment we consider today is a step toward maximizing the efforts at the Federal level to protect consumers from being swindled out of money they can seldom afford to lose.

Legislation in this area must be carefully crafted to avoid unduly burdening the many legitimate telemarketers, and to find the proper balance between Federal and State enforcement. I believe this legislation achieves both those goals, and will be of considerable assistance to consumers. It is the result of two Consumer Subcommittee hearings on this issue, and many months of work toward this end. As I stated, it passed the Senate by unanimous consent last year.

My Republican colleague, the distinguished junior Senator from Arizona [Mr. MCCAIN] who is a cosponsor of the bill, has been of tremendous assistance in crafting this legislation. He has worked on these issues for some time, and this amendment incorporates several proposals originating with Senator MCCAIN.

Briefly stated, this amendment requires the Federal Trade Commission to promulgate rules defining and preventing telemarketing fraud, as well as regulating the ways in which telemarketing is carried out. This rulemaking will consider, among other things, limitations on the hours of calling and the use of automatic dialing machines, as well as the requirement of a cooling off period in which buyers may rescind purchases which they have reconsidered. These rules will provide supplemental authority to that which the FTC has under current law. This amendment is not intended in any way to alter the FTC's current authority, but merely to provide the FTC with additional weapons in its arsenal against those who would harrass or defraud the consumer.

The amendment also will permit State law enforcement officials, and private parties who have incurred over $50,000 in damage, to sue to enforce the new telemarketing rules in Federal court. However, the amendment will not preempt any existing State laws, so the States will retain all authority they currently have to bring actions in State court against telemarketing fraud or other injuries to their citizens. This amendment merely provides an additional remedy enforceable only in Federal court. Additionally, the amendment provides the FTC with enhanced enforcement tools, such as increased subpoena power, to carry out its consumer protection functions.

To summarize, I believe this is an amendment that will provide valuable enforcement tools for both Federal and State officials and private parties, to protect consumers against the serious threat of telemarketing fraud. However, it is carefully balanced to impose no more burden than is necessary on legitimate telemarketing businesses, whose reputations should benefit from the elimination from their industry of those who commit fraud or otherwise harass consumers.

Consumers deserve to be protected from intrusive, high pressure, and fraudulent sales schemes. They deserve our help in protecting the income they have worked so hard to earn. Today I believe the Senate has the opportunity to take a significant step on behalf of the consumer. I welcome my colleagues' support in this effort.

Mr. President, I would represent to my colleagues that this has been cleared on both sides of the aisle and I urge its immediate adoption.

Mr. MCCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has made great strides in offering American consumers greater options for obtaining information, entertainment, and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. However, the expansion of the industry has unfortunately led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens to give them their money, and then run, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent last fall.

I am again pleased to be working with Senator BRYAN in reintroducing this legislation as an amendment to the crime bill in an effort to protect consumers from telemarketing and consumer fraud.

Telemarketing and consumer fraud costs American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these "boiler room" scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

Senior citizens are particularly susceptible to consumer and telemarketing fraud. Fraudulent practices are successful with the elderly for many reasons. First, senior citizens are sometimes more easily pressured by individuals seeking to defraud them. Second, seniors are major consumers of services and products for which they are targeted by con artists, such as medical devices, drugs, and nutritional products. Third, fixed incomes make get-rich-quick schemes seem attractive. Finally, illnesses or diseases suffered by seniors may make wonder cures very enticing.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud or quackery, is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of health quackery.

Not only is such fraud dangerous to consumers' health, it is also costly: Current projections by the National Council against Health Fraud indicate that health care fraud is costing Americans close to $25 billion per year.

Health care fraud can be life threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

A few examples from my own State of Arizona illustrate the magnitude of the problem.

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read: "Alzheimers' disease—symptoms of senility. At

last—now now there is hope. Call this number for help. Free—no charges—no fees."

Another case involved a phony cancer cure called Tumorex. The ad read:

Cancer patients undergo a six-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken one-half hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, six days of treatment are sufficient; however, 12 days or more are required for some severe cases. Colon cleaning is important before treatment and imperative after treatment. $2,500 includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however MasterCard and Visa are acceptable.

Mr. President, Tumorex is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. While telemarketing fraud is not confined to older Americans, it is often successful among this group. Consumer items for purchase, and medical and health services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. Unfortunately, the consumer often loses by not receiving the ordered item, receiving a copy rather than an authentic item, or suffers some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items were sent to the company which, in turn, cashed the checks and never delivered the merchandise. This operation generated over 1,300 complaints.

Mr. President, examples such as this one go on and on, and the list continues to grow.

A third area of great concern is life care communities, some of which cause the elderly to lose their money as a result of fraud or mismanagement. Life care communities can be a practical solution to the problem of assuring independent and supportive living for older Americans, while guaranteeing 24-hour nursing care for those who require it.

However, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, the misrepresentation of the mortgage lender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit card privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsuspecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card numbers to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer who never receives the item or receives an item which is different from the promised item. There is an additional effect on the banking institutions, which, upon receiving the complaint from the consumer, or having to acquire the accounts of telemarketing merchants who went out of business, must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact situation took place in my State of Arizona. On February 15, 1990, Gateway National Bank from Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just 1 year prior to insolvency Gateway claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these issues, this legislation would minimize the practice of telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commision [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice, and establishes liability for the merchants who knowingly work in concert with fraudulent telemarketers.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include; First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorneys general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorneys general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarketing fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of

"physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, if it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 412) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 413

(Purpose: To prohibit advertisements intended to promote or facilitate the illegal distribution or transfer of a schedule I controlled substance)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 413.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert:

SEC. .

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. as used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

Mr. DECONCINI. Mr. President, this was an amendment adopted last year on the crime bill. It is identical to last year's amendment. It deals with the Controlled Substances Act, and inserts a new section. That section makes it "unlawful for any person to print, publish, place, or otherwise cause to appear in the newspaper, magazine, handbills, or other publication any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance."

In essence, this will prohibit the advertising of marijuana seeds in publications where you can send away for them. Marijuana seeds are being advertised today in several U.S. publications, including one known as High Times magazine.

High Times is available in many bookstores right here in our area and in the State of Arizona. In the past, the companies offering the marijuana seeds were located in the Netherlands, but today they have moved to the United States and you can buy these seeds right here.

Let me give my colleagues just a couple of examples that you can find under the classified sections of weekly publications. One is as follows. It reads:

Free seed catalog. New service. Quality strains. Exceptional value. CM Group, P.O. Box 725163, Royal Oaks, MI.

Under a section of the catalog, if you send away for it, the ad will read:

Ordering Information.

Due to concerns from our customers about order records, cash is the only acceptable method of payment. Registered mail will be accepted, but remember, this generates a permanent record. All actual records will be destroyed immediately.

This is what we are seeing happening today with the sale, through publications and catalogs, of marijuana seeds. These marijuana seed companies are promoting an illegal drug that is used by at least 20 million Americans. Marijuana is the gateway drug to cocaine and heroin. That is hardly disputed any longer. Marijuana production in the United States has created an underground industry that is the leading cash crop in several States today.

The marijuana produced from these seeds is known as sinsemilla. This marijuana can command up to $4,500 a pound. Drug agents say that we grow the best, most expensive, and most potent marijuana in the world, here in the United States.

An example of the sophisticated criminal network that is involved in marijuana production in the United States is a case the DEA made last year against an Albuquerque drug group called "The Company." The Chicago Tribune outlined the inner works of "The Company" in an April 2, 1990 article. The DEA said: "The ring had started with 13 cuttings cloned from a superplant produced by a botanical genetics expert in Washington State who sold the starter"—that means the plants—"to the New Mexicans for $27,000."

"The Company" is a group involved in the drug trade. Besides earning $1,750 a week, each worker for "The Company" was given 2 ounces of marijuana each week, apparently to keep them from stealing from their own supplies.

We have a problem here that I think needs to be dealt with. Last year the Senate approved it. We did not get it passed in the conference with the House because we ran out of time. I ask at this time that the amendment be considered.

I advise my colleagues it has been cleared by the minority as well as the manager on the majority side of the bill.

I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LAUTENBERG). Is there further debate?

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 413) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. I thank my distinguished friend from South Carolina, the minority ranking member.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUSTICE THURGOOD MARSHALL

Mr. DECONCINI. Mr. President, I want to just make a short comment on the notice of intention to resign by Justice Thurgood Marshall, today.

I think the country has been extremely fortunate to have this distinguished jurist serving the Nation since 1967. Thurgood Marshall came to the court with a wealth of experience, having tried over 30 cases, civil rights discrimination cases with the Supreme Court as general counsel of the NAACP. He won, I believe, 29 of those cases. He distinguished himself.

I had an opportunity to read a lot of his cases when I was a prosecuting attorney, particularly dealing with the death penalty. I did not agree with the Judge on the death penalty cases but I have grown to have the utmost respect for Justice Marshall. His opinions do not deal just with discrimination as it relates to race. They deal with discrimination so often as they relate to all individuals in our society. He has had a unique perspective in interpreting the United States form of constitutional government, where the individual is supreme, over the State in almost all areas.

And for that I must say that we owe him a great deal of credit and accolades because of his foresight, because of his determination and his unalterable guidance of what he felt for the Constitution and how it should be interpreted as it relates to individuals.

As I said, there are many opinions I disagreed with Justice Marshall on, but I must say intellectually and legally, he has to be one of the outstanding jurists of this century because of his capabilities of expressing himself and never altering from his view of the Constitution.

So I truly hope that President Bush looks at this seat with the possibility of another minority representative. What is a minority, I guess, is somewhat debatable. I believe that there are some very outstanding people who could serve in that capacity.

I am not trying to be too parochial, but Stanley Feldman of my State, a Jewish-American lawyer, and now Chief Justice of the Supreme Court of Arizona, has that same intellectual insight that I have witnessed, as he has become a Supreme Court justice and indeed as a trial lawyer before that.

He just comes to my mind. There are many, many other fine jurists. I hope that President Bush looks as carefully as he did in the nomination of Justice Souter, as someone who is not dogmatic, someone who has the capacity to grow into the job of a Justice of the Supreme Court, and express his views and has a real understanding of the Constitution, whatever that may be in your mind or my mind, Mr. President, but in the person's mind—that the Constitution is not hard and fast, based on our own narrow interpretation at times.

I look forward to serving on the Judiciary Committee to review whomever the President appoints.

Again my compliments to Justice Thurgood Marshall on his outstanding career. He will be missed, even though by some he has been criticized at times, and this Senator as well disagreed with some decisions.

It is a remarkable career that he has put forward. As I said, I think he will be recognized as one of the outstanding jurists of this century.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. 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. WIRTH. Mr. President, I ask unanimous consent to proceed as if in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 3 minutes.

JUSTICE THURGOOD MARSHALL

Mr. WIRTH. Mr. President, we were, I believe, all very surprised today to hear of the resignation of Justice Marshall who has served the country for so long, so well, and been an advocate for so many issues that the occupant of the Chair and I and so many others in this country share the right of individuals, the opportunities for all Americans. Much of what the American dream stands for was represented by Thurgood Marshall, and what he stood for.

We are going to be faced, Mr. President, with an enormous challenge, and I am struck in trying to think through the timing of Mr. Marshall's resignation. This occurs about 3 weeks after the Court's, I think, very, very unfortunate ruling on the gag rule and the elevation of that issue so dramatically in American government, in American society, among groups of all kinds today.

The gag rule issue and the issue of choice for women has been raised to a plane significantly higher than it has been for a number of years. And now I believe the Marshall resignation and the quest of the Bush administration for a replacement is going to raise not only the gag rule issue but the choice issue even higher. It is going to make everybody in this body focus once again very clearly on women's rights, the rights of individuals to privacy, the kinds of issues that I believe we must expect from our Supreme Court.

I hope that, as the Bush administration examines potential candidates to fill the very, very large shoes of Justice Marshall, they understand that many of us, and I believe a majority of this body, will be waiting for a very clear signal from whoever that nominee is, a very clear, unambiguous statement about where that individual is not only on the gag rule issue but on choice overall.

I believe, finally, Mr. President, that we have an obligation to ask that question and to get a very, very clear answer. There is no way we are going to go through the ambiguity that we went through before. It seems to me that all of that sort of nice discussion, which I found somewhat charming at the time but extremely disappointing in result, is something that we cannot tolerate again.

I hope that my colleagues will join with me in making sure that this administration understands that any nominee that they send up here has to receive 51 votes and that this issue, making it clear on the issue of women's rights and choice, is going to be the determinant. That issue is now at the highest level of expectation, at the highest level of focus that it has been in this country ever before, and it must remain at that level and it will.

Mr. President, today the Nation learned the sad news that we will be losing one of the Supreme Court's most forceful and eloquent advocates for individual freedom and liberty. Thurgood Marshall's historic legacy has been one of protecting those who are most vulnerable in our democracy—and he has been one of the staunchest voices on the Court for civil rights, freedom of choice, and individual rights.

Like the tides, our Nation has experienced waves of bigotry and intolerance—and time and again Thurgood Marshall has stood like a rock to meet these tides. His departure from the Court will certainly diminish the ranks of those of us who strongly believe in protecting a woman's right to reproductive choice and ensuring equal opportunity for all preserving our fundamental rights to live our lives as we choose.

President Bush will have the opportunity to replace Justice Marshall. His nominee will face the considerable challenge of his legacy. The Senate, in its role of providing advice and consent on Supreme Court nominees, should not approve anyone who cannot express clear views on critical constitutional questions that the Court may address.

Marshall stated that his resignation would be effective "when my successor is qualified." We in the Senate are responsible—responsible for ensuring that the next Supreme Court Justice is qualified. We also must ensure that we know just that—how the nominees will interpret our Constitution. The implications are too great to leave this to the unknown.

I view this resignation as a call to arms for Congress—we must step in

where the Court has, and will, fail us. We recently have witnessed the Court diminishing many rights that Americans have historically held dear and must hold the line on any further erosion of our liberties. Where we cannot depend on the Court to uphold those rights, the responsibility falls on the shoulders of Congress to legislate those rights—to ensure a free and just America for each and every one of us.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 414

(Purpose: To amend the Federal Deposit Insurance Act, the Federal Credit Union Act, and the Crime Control Act of 1990 to strengthen prohibitions against individuals convicted of financial institution crimes, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. PELL, Mr. GARN, and Mr. RIEGLE, proposes an amendment numbered 414.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TITLE —FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. . SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. . FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. . FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under cause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. . CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapse in the future.".

Mr. CHAFEE. Mr. President, this is an amendment that I am offering this evening on behalf of myself, Senator PELL, Senator RIEGLE, and Senator GARN. It is an amendment to the crime bill. The purpose of this amendment is to protect depositors from criminal abuses at the Nation's federally insured banks and credit unions.

This amendment has been cleared by both sides. It is my understanding it is acceptable to the managers and that a rollcall vote on it will not be necessary.

Briefly, Mr. President, the financial institutions fraud prosecution amendment would strengthen penalties against individuals convicted of certain crimes, and prevent those individuals from securing employment at a federally insured depository institution. A similar provision was enacted last year to prohibit savings and loan criminals from employment at an FDIC-insured bank for a period of 10 years.

Criminal activity has been a serious problem in the financial services community. The Justice Department estimates that at least 50 percent of the Nation's insolvent savings and loan institutions were victimized by fraud; 50 percent, half of all the savings in solvent S&L's were victimized by fraud.

In my home State of Rhode Island, 45 banks and credit unions were closed by our Governor on the first day of January of this year due to the collapse of a scandalously mismanaged private deposit insurance fund. Examinations are underway to determine the origins of Rhode Island's crisis, but it is believed that criminal activity contributed to the State's worst financial crisis since the Great Depression.

The shameful truth is that too many of the directors, managers, and employees at our financial institutions have enaged in criminal activity for their own personal enrichment.

We have all heard about corrupt financial executives leading jet-set lifestyles complete with yachts, fancy jewelry, furniture and paintings. In Rhode Island, one prominent bank official has apparently fled the country with $13 million stolen from depositor accounts. His actions contributed significantly to the State's banking emergency—but also revealed a web of deceit and criminal activity at institutions insured by the State's private deposit insurance fund.

In my view, the financial industry's competitive challenges are stiff enough without the added worry that unlawful activity will further undermine the stability of our banks and credit unions.

Let me briefly describe the major components of this amendment which is titled the "Financial Institutions Fraud Prosecution Amendment."

First, individuals convicted of certain crimes—fraud, dishonesty, breach of trust, money laundering, obstruction of a Federal examiner—will be barred from any employment at a federally insured credit union for a period of 10 years. Let us take the Rhode Island situation as an example. If a director of a closed credit union is convicted of fraud, he or she would be barred from securing employment at any federally insured credit union for a period of 10 years. Legislation approved last year would also prevent that person from working at an FDIC-insured bank.

Second, last year's crime package established that obstructing or attempting to obstruct a financial institution examination by a federal regulator is an offense punishable by up to 5 years in prison. The amendment builds upon that provision and would require that any individual convicted of such an offense would also be barred from employment at a federally insured financial institution for a period of 10 years.

The final portion of the amendment would urge the Justice Department to expand its interagency task force to

gauge the impact upon the Federal Government of the collapse of a private deposit insurance fund.

You might say, after the experience that we have gone through in our State, are any of these private deposit insurance funds still out there? Well, there are. In several States, there are institutions, credit unions, some locally chartered banks, that do not have Federal deposit insurance provided, nor does the National Credit Union Administration provide insurance.

The January collapse of Rhode Island's private deposit insurance fund was the Nation's third such collapse in 5 years. In 1985, private insurers in both Ohio and Maryland became insolvent. Independent examinations into the origins of these financial institutions crises have revealed that fraud and criminal activity contributed significantly to these financial disasters.

Alarmingly, private insurers continue to operate in at least 20 States. The Federal Government needs to quantify the risks associated with private deposit insurance funds. My amendment would require the Justice Department to assess the risks to the Nation's economy, and to propose any legislative initiatives that might limit the Government's exposure in these matters.

Mr. President, this is a modest, yet important, amendment that has been endorsed by the National Credit Union Administration, the Federal Deposit Insurance Corporation, and the U.S. attorney in my State. In addition, the U.S. Justice Department has reviewed the amendment, and all its recommendations—that is the recommendations of the Department of Justice—have been included.

This amendment builds upon existing law, and would protect depositors across the Nation by ensuring that those convicted of fraud-related offenses will not have the opportunity to return to a career in the banking or credit union industries for a very long time.

I appreciate the managers' support for this proposal, and I look forward to the swift enactment not just of this amendment, but of the underlying legislation.

Mr. President, if I could get the attention of the manager of the bill, I have represented that this is agreeable to the managers, and I believe the manager will confirm that.

Mr. THURMOND. Mr. President, we accept the amendment.

Mr. CHAFEE. Mr. President, I want to thank my distinguished senior colleague for his support on this amendment.

Mr. President, I ask unanimous consent that an article from our Providence paper, the Providence Journal-Bulletin, dated June 21, in connection with the fraud and bribery that was believed to be involved in the Depositors' Insurance Program that we have in our State, be printed in the RECORD.

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

[From the Providence Journal—Bulletin, June 21, 1991]

FRAUD, BRIBERY HINTED IN FALL OF RISDIC

(By Mike Stanton)

Providence.—Fraud, bribery and extortion may be among the factors that led to the demise of the Rhode Island Share and Deposit Indemnity Corp., the commission investigating the state banking crisis has found.

The first indication by the RISDIC Commission that it has uncovered evidence of criminal wrongdoing has emerged in court papers filed in Massachusetts in a battle to compel former RISDIC director Norman R. Baris to testify.

In a six-page brief filed in District Court, Attleboro, Mass., commission lawyers paint a broad picture of the causes of a crisis that led Governor Sundlun to close 45 banks and credit unions on Jan. 1, depriving more than 300,000 depositors of access to $1.8 billion in savings.

"Although the Select Commission's investigation is still in a very preliminary stage," the brief said. "It appears that negligence, poor lending practices, breach of fiduciary duty, insider dealing, professional malpractice, fraud, bribery and extortion all contribution to the insolvency of several RISDIC-insured financial institutions, their failure, the failure of RISDIC, and consequently, the issuance of Governor Sundlun's closure order."

The commission is asking District Court Judge Antone S. Aguiar Jr., to order Baris, an Attleboro resident, to testify. If the judge complies and Baris refuses, he could be held in contempt of court. A hearing before Agular is set for Friday at 2 p.m.

The court petition was filed after Baris, the retired president of Pawtucket Credit Union, refused to honor a subpeona to testify before the commission.

The brief identifies Baris as a key RISDIC insider who made a "large withdrawal" from an unspecified institution last December.

A grand jury is probing the alleged embezzlement of at least $13 million from the Heritage Loan & Investment Co. by fugitive president Joseph Mollicone Jr. Heritage's failure last fall was the first major domino leading to RISDIC's Dec. 31 collapse.

And a statewide grand jury is investigating the banking practices at six institutions—Heritage, Marquette Credit Union, Davisville Credit Union, Rhode Island Central Credit Union, Central Credit Union and Greater Providence Deposit & Trust.

"We have indications of (criminal wrongdoing)—through allegations or testimony or hard evidence—but that's not to say that were bringing all these cases in next week," Alan I. Baron, the commission's special counsel, said last night. "These are some of the things that could emerge. We have active investigations ongoing in several areas, and in many we've developed hard facts."

Baron stressed that the bribery he referred to in the brief is commercial bribery, not political.

"Hypothetically, if someone pays somebody at a bank to do something for them—gives them a benefit to approve a loan that wouldn't have been approved otherwise—that's commerical bribery," he said.

Regarding possible extortion cases the commission is investigating, Baron said, "It's possible that some people extended money or other favors in return for doing something."

Early withdrawals based on inside information have been the commission's first priority. The commission chairman, Rep. Jeffrey J. Teltz, D-Newport, has said potential civil and criminal actions could follow public hearings that will open July 8 on that topic.

In the meantime, the commission also has about a dozen financial investigators poring over loan files and financial records at many of the closed institutions, looking for potential wrongdoing in other areas.

The commission, named by Governor Sundlun in February to probe the causes of the banking crisis, has subpoenaed thousands of documents and taken secret depositions from more than 50 witnesses thus far. But it has said little publicly about what it has found.

"The investigative phase of the Select Commission's inquiry is necessarily confidential," the Attleboro brief said, "but the Commission is actively investigating several individuals who may bear civil liability, criminal liability, or both, arising from the collapse of RISDIC."

Teitz and Baron declined last night to elaborate on the commission's investigation, or on where Baris fits in.

But the Attleboro brief identifies Baris—the first witness to resist a subpoena—as "one of the three or four key insiders at RISDIC" who made a "large withdrawal" last December.

"Preliminary investigation reveals that Mr. Baris may have breached fiduciary duties to RISDIC or financial institutions he served by making a large withdrawal from a RISDIC-insured financial institution during December 1990," the brief said. "Mr. Baris's testimony is therefore crucial to the Selection Commission's inquiry."

Five other former RISDIC officials or directors have appeared before the commission but invoked their Fifth Amendment right against self-incrimination and refused to answer questions.

They are RISDIC chairman Joseph Bellucci, RISDIC president Peter A. Nevola, Marquette president Charles A. Paquin, Rhode Island Central president John R. Lanfredi and Eugene V. Leco, who also is president of the Rhode Island Credit Union League.

A subpoena issued for Baris on May 9 instructed him to appear before the commission May 16. That date was postponed because Baris needed more time to obtain documents to prepare for this testimony.

Shortly thereafter, commission officials say, Baris and his lawyer, James F. McAleer of Providence, informed the commission that they would not appear.

Baris, who lives at 80 Morse Ave. in South Attleboro, had no comment, his wife, Yvette, told a reporter yesterday. McAleer did not return telephone calls to his home and office.

Baris was RISDIC's first vice chairman and a member of its executive committee at the time of its collapse, and he was appointed by the RISDIC board last November to run Heritage after it failed.

Earlier yesterday, the RISDIC Commission recalled a previous witness, Pawtucket real estate broker William Slattery, to testify again.

Slattery, who first appeared June 11, was questioned in secret yesterday for about one hour. He and his lawyer, former state Senate Minority Leader Robert D. Goldberg, declined comment afterwards.

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

Mr. CHAFEE. Mr. President, I note the presence on the floor of my distinguished colleague. I know he has comments on this particular legislation.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am very glad to be a cosponsor of Senator CHAFEE's amendment to the crime bill.

Many of my colleagues know that Rhode Island is currently held in the grasp of a banking crisis.

This crisis is now entering its seventh month with no immediate help in sight for many depositors with funds frozen in closed Rhode Island banks and credit unions.

This amendment would provide no money for Rhode Island, but it would provide punishments for those who engage in credit union-related fraud. This amendment would also increase the penalties against those who obstruct efforts to conduct an examination of a bank or credit union.

The Governor of the State has created a commission to examine any wrongdoing associated with the Rhode Island banking crisis. This commisson has been actively at work gathering information on possible illegal activities that led to the collapse of many private insured Rhode Island banks and credit unions.

Those who caused the Rhode Island banking crisis through fraud or other illegal acts should be punished with every means possible. The State of Rhode Island is making a serious effort to uncover any illegal acts associated with our banking crisis. This amendment will ensure that any punishment that results from this crisis will be more severe than the penalties that are currently on the books. The amendment also creates new penalties for those who betray the public's trust and commit acts of fraud while operating a credit union.

I congratulate and thank my colleagues from Rhode Island for proposing this amendment.

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

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 414) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that Vicky Stack, a health fellow on the staff of Senator DOLE, have the privilege of the floor during consideration of S. 1241.

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

Mr. ROTH. Mr. President, I ask unanimous consent we set aside S. 1241, as if we were in morning business, for the purpose of making two statements.

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

CONVENTIONAL ARMS TRADE

Mr. ROTH. Mr. President, the United States now stands at the peak of its ability to exercise world leadership in controlling the international conventional arms trade. We have in front of us the development of a new era in East-West relations and the construction of democratic governments in Eastern and Central Europe.

We have a victory behind us in the Persian Gulf. And we have the eyes of the world upon us to exercise leadership in halting the unmonitored and unrestrained trading in conventional weaponry that has been a part of the old world order for the past several decades.

We must seize this opportunity, Mr. President, before the momentum is lost and before another Iraq is allowed to develop.

The recent initiative of President Bush calling for establishment of guidelines for restraints on conventional arms transfers to the Middle East is a welcome step. Yet, our efforts in mustering the international cooperation which is essential to any progress in this area must be comprehensive, and our approach many-faceted.

One concept certainly deserving of more attention is that of transparency—in other words, increasing the amount of information that is publicly available about international arms transfers. Enhanced transparency is not an end, but a means to an end. It is but an initial component of an effective multilateral control regime for conventional arms transfers, yet one which can go a long way in fostering motivation for future steps.

At recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, several witnesses testified about the increasingly unfettered selling tactics prevalent in today's global arms market.

Over 60 nations—many of them in the Third World—are engaged in arms manufacture and export. And most of these are dependent on exports in order to keep their indigenous defense industries viable. Although the overall volume of global military transfers has declined in recent years, activity in the international arms market has not abated as suppliers vie for shares amidst increasing competition.

One of the points which was illustrated clearly by the witnesses at this hearing is the dearth of information which exists regarding individual transactions in the conventional arms market. Although overall arms sale volumes can be approximated and certain individual transactions tracked, there is little or no information publicly available about the vast majority of conventional arms transfers.

Without such information, it is impossible to assess the adequacy of our existing regulations or sensibly to contemplate enhanced controls.

The United States is uniquely able to take the lead in encouraging greater transparency in the arms market. Our defense industry is one of the most transparent in the world, with congressional reporting requirements for all major sales built into our export control regime. This is not so in other nations, including many of our NATO allies, where arms transfers are often closely guarded secrets.

Mr. President, a prudent first step which I would urge be given serious attention is a call to all nations—in particular to our fellow members on the U.N. Security Council at the coming Paris conference, and to our NATO allies—to introduce enhanced transparency into arms sales—at least to a degree parallel to that which exists in the United States. Perhaps we, too, can go further as time progresses. Yet this represents a good starting point.

There are several ways to bring about enhanced transparency in the international arms market. The one currently receiving the most attention—including the support of British Prime Minister John Major—is the introduction of an arms registry in which certain information about arms sales and purchases would be recorded. President Bush, in his arms control initiative, called for an annual report on arms transfers by the five major suppliers to the Middle East.

This could form the basis of a more comprehensive registry. Although conceptions of an arms registry vary, most agree that it could be devised in such a way so as to ensure protection of legitimate proprietary concerns. One idea—an idea favored by Great Britain, Germany, and several other nations—would be a registry which, at the outset, would be limited to the main supplier nations—the Permanent Five—and would cover the major weapons categories as defined in the CFE negotiations.

Such a registry, by including the vast majority of conventional arms transactions, would serve as a basis for enhanced controls in the future.

Institution of an arms registry and introduction of increased transparency have several other advantages recommending them: The cooperative and consultative spirit engendered by multilateral collaboration to develop a registry would carry over into other efforts in controlling the arms market.

The international pressures fostered by participation in such a registry would exert positive regulatory influence on traders in the international market. And, the increased attention brought to arms transactions would assist efforts to muster increased politi-

cal will to bring the arms trade under control.

Mr. President, we have a large task ahead of us, yet one which we cannot ignore.

Increased illumination of the extent and workings of the conventional arms market and closer multilateral cooperation are crucial components of a successful strategy for ensuring the peace and tranquility of the new world order.

Mr. CRANSTON. I ask unanimous consent to proceed as if in morning business.

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

UAE ARMS SALES: BUSINESS AS USUAL IN DEATH'S BAZAAR

Mr. CRANSTON. Mr. President, several days ago I announced my intention, together with that of the distinguished chairman of the Foreign Relations Committee, Mr. PELL, to oppose the proposed sale of arms to the United Arab Emirates.

Today I am happy to report that over one-quarter of the Senate, 26 Members, have now joined together to sponsor this effort. Many more will do so in the days ahead.

The issue here, it seems to me, goes beyond the administration's plans to sell 20 AH-64 Apache attack helicopters—offensive weapons—along with 620 Hellfire missiles and related equipment, and spare parts to the UAE.

The issue, the larger issue, is the very credibility of the administration's call for arms control in the Middle East.

This arms sale, to a small nation sandwiched between Saudi Arabia and Oman, comes just days after the administration called on major arms suppliers to restrain arms traffic in the region.

It also comes at a time when those of us in Congress are still waiting for the administration to let us in on its long-term strategy in the Middle East—if indeed it has a strategy.

The unclassified justification for the sale offered by the administration is a musty retread that obscures more than it illuminates:

> This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services.

Please compare this to the well-reasoned argument contained in an article in yesterday's Washington Times by Ze'ev Binyamin Begin, chairman of the subcommittee for national security policy in the Israeli Knesset.

He wrote:

> The root cause of instability in the Middle East—the enormous Arab edge over Israel in conventional arms—must be addressed in any arms control initiative * * *.

Begin pointed out that, from the period 1979–88, Arab countries in the Middle East received weapons valued at $168 billion, while Israel received arms worth $10 billion.

He noted that plans by the five major arms suppliers to the Middle East, including the United States, to establish guidelines for restraints on destabilizing transfers of conventional arms will be only as useful as the compliance these strictures generate.

Begin said:

> Judging realistically from past performance, expected promiscuous arms sales behavior by one or two of them would be enough to put the others in competition and detach the American vision from Middle East reality * * *.

Obviously, the $682 million sale to the UAE will not help set a forbearing precedent as we sit at the table to urge our fellow arms suppliers to forbear.

It will not help restrain the arms race. It will not help solidify a well-articulated U.S. policy in the region—there is none. Nor will it further the prospects for regional peace.

Mr. President, there is one other point I would like to make about the Emirates' notable lack of enthusiasm for international treaties concerning the laws of warfare. Before doing so, I note the chairman of the committee is on the floor and I would be delighted to yield to him—he is a cosponsor of this legislation, which means a great deal—if he wishes to comment.

Mr. PELL. I thank the Senator from California for his kindness and courtesy, and at this point I congratulate him on his leadership. I congratulate the American people that he is giving this leadership.

I hope very much that this passes. I think the statistics that he cites are truly amazing when you think of the relative amount of arms going to the Arab world as compared with Israel. The general impression is it is just the opposite.

Mr. CRANSTON. Absolutely. I thank the distinguished chairman of the committee for his leadership on this issue as on so many others.

Mr. President, the following is relevant to this. It is a list of treaties to which the United States is a party but the United Arab Emirates is not, treaties that are very important to civilization and to our efforts to develop a more peaceful world. We have signed these. The United Arab Emirates has not done so:

The Hague Convention Respecting the Laws and Customs of War on Land, 1907;

The 1925 Geneva protocol, which developed the existing principle against the use of projectiles whose sole object is the diffusion of asphyxiating or deleterious gases, found in the Hague Convention II of 1899;

The Antarctic Treaty of 1959;

The Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water, or the Partial Test Ban Treaty, of 1963;

The Outer Space Treaty of 1967;

The Seabed Arms Control Treaty of 1971;

The Convention Concerning the Protection of World Cultural Heritage—Paris 1972—and

The 1977 Environmental Modification [ENMOD] Convention.

Not being a signatory of these important international covenants does not mean the UAE has or will enter into a flagrant violation of any one of them.

Nor does the State Department's finding, contained in this year's annual human rights report, that "principal human rights concerns continued to be abuse of prisoners and restrictions on freedom of speech and press, assembly and association, the right of citizens to change their government, and women's and worker rights," make the UAE the worst regional government ever to receive U.S. security largess.

But the record there is not very good. Not one that inspires confidence. Not a record for the new world order, and certainly not a record to lay side-by-side with the sacrifice of our troops recently returned from the Persian Gulf.

It is, however, one more good reason to say no to this arms sale, and I urge my colleagues to do so.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. 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. BURNS. I ask unanimous consent I may proceed as if in morning business for no more than 4 or 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1403 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RESIGNATION OF THURGOOD MARSHALL

Mr. METZENBAUM. Mr. President, today, one of the greatest and most courageous champions of civil rights, Thurgood Marshall, resigned from the Supreme Court. It is a tragic loss for this country. From his early days as an attorney for the NAACP Legal Defense

Fund, until his last days on the Supreme Court, Thurgood Marshall spent nearly a half century advancing the cause of civil rights. No lawyer labored harder to wipe away the stain of racial discrimination than Thurgood Marshall. He was there when so many others were not.

While at the NAACP Legal Defense Fund, he conceived and executed the brilliant strategy for desegregating the Nation's schools. His tireless pursuit of that strategy ultimately led him to the Supreme Court, where he argued the case of Brown versus Board of Education. A unanimous Supreme Court adopted Marshall's view, ruling that the Constitution of the United States forbids segregation in our Nation's schools.

Thurgood Marshall's unceasing efforts to outlaw segregation changed forever the social and legal landscape of this country. But his efforts to protect and expand the civil rights of all Americans did not end with his victory in Brown. He continued to champion the cause of equal justice after he became a member of the Supreme Court. No member of the Court has done more to protect the rights of minorities than Thurgood Marshall.

Mr. President, Thurgood Marshall spent his entire career making the ideals of equal justice and equal opportunity a reality for all Americans regardless of race or ethnicity. He spent his entire career working against prejudice, ignorance, and hate. He spent his entire career working for tolerance and racial harmony. He was an idealist, but he was tough as nails. He was a brilliant lawyer and an able Justice, but he was also a warm man with a great sense of humor. Ours is a more just and fair society because of his efforts. I am sorry that the Court is losing him, but I am grateful that we will always have the chance to be inspired by his accomplishments.

Mr. President, it is a tremendous loss to this Nation for Thurgood Marshall to resign. And there is no secret about it, that the Supreme Court in recent years, with the new changes, has no longer been the defender of the constitutional rights and liberty of the people of this country, and with Thurgood Marshall gone it will make the challenge and the job that much more difficult.

I think it would be a magnificent gesture on the part of the President of the United States if he would see fit to bring to the Supreme Court someone who in some ways represented the ideals, and convictions, the concerns, aspirations, and the hopes of Thurgood Marshall. I do not think we need any more of the so-called right wing conservative bloc. It is there. It is in a majority. But there ought to be someone on that Supreme Court, someone who can carry forth as did Thurgood Marshall, standing up for the hopes and aspirations of people of this country, standing up for the Bill of Rights, standing up for the Constitution of this country. Without him there, our challenge in the Congress is that much greater.

There was a time in our history when the people of this country could not count upon their Congress and they looked to the Supreme Court to protect their rights. Now I am afraid, Mr. President, that is no longer the case. I do not think the people can look to the Supreme Court. I think they must look to the Congress of the United States, and it makes our responsibilities that much more greater.

I am grateful to Thurgood Marshall for the years that he spent on the Court and for challenges and the leadership that he provided us over the years.

The PRESIDING OFFICER (Mr. DODD). The Senator from Iowa.

JUSTICE THURGOOD MARSHALL

Mr. HARKIN. Mr. President, I join my friend and colleague from Ohio, Senator METZENBAUM, in paying tribute to a truly unique and truly great American, one of the real giants in American history, Thurgood Marshall, who today announced his retirement from the U.S. Supreme Court.

This is indeed a sad day today for all who respect justice, for all who have looked to the Supreme Court as the final arbiter of fairness and justice for all in our society, for the little people, the left out, the unrepresented, and for those for whom the scales of justice more often than not do not fall evenly. These are the people that Thurgood Marshall always had in mind during his years with the NAACP, and later on the Supreme Court.

When reading Thurgood Marchall's opinions, whether they are for the majority of the Court—less frequently, I might add, in these later years—or dissenting opinions, there is the sense that here was an individual who understood people, who knew what it was like to be discriminated against, who knew what it was like to be left out, who knew what it was like to go to the bar of justice and have justice denied, as so often he was in his earlier life, and as so many African-Americans were and still are today.

His writings provide the sense that he feels deeply and passionately about the promise of America, about the promise that this country is more than just 260 million individuals each running around trying to get the most for himself or herself. Instead, he understands that the American promise is that all Americans are one family, where "the interest of one is bound up with the welfare of all," in the words of Franklin Roosevelt.

Thurgood Marshall represents the finest in what it means to be a Justice. He is, not someone who simply rubber stamps old dicta, or believes that whatever was decided before must continue. He understands that the Constitution is a living and growing document, that the truths and fundamentals of the Constitution are indeed eternal, but as times and conditions change those applications must change also to suit the ever-growing, expanding concept of freedom and justice.

So this is indeed a sad day. The Senator is indeed sorry to see Thurgood Marshall go. I do not believe that anyone will ever be able to fill his shoes, at least not in the way that he approached his life's work, certainly not in the way that he committed himself over a lifetime to eradicate discrimination and unfairness in this country.

As the distinguished Senator from Ohio said, the unanimous decision in Brown versus Board of Education finally broke down those barriers in our society. Yes, we still have discrimination today. There is no doubt about it. But Brown versus Board of Education clearly and unequivocally said that every child in America, regardless of race, is entitled to equal public education, and equal opportunity.

Especially in this time when we are debating civil rights and what the concept of civil rights means in our country, it would do us all good to carefully study the life of Thurgood Marshall. It is refreshing to know that we have such people who are willing to dedicate their lives in the cause of justice and fairness.

So, Mr. President, I commend Justice Thurgood Marshall on his career in public life, for his dedication to all that is best in our constitutional form of government, his dedication to all that is best within the human spirit. I only wish that he could live to be 200 years of age, to stay on the Court for another 50 to 75 years.

I trust and hope that the administration will do everything they can to find another individual in the same mold, with the same kind of character and with the same kind of dedication and feelings that Thurgood Marshall exhibited.

That person will not be another Thurgood Marshall. But at least I hope that the person they pick will follow in the path and try to fill the shoes of Thurgood Marshall. I hope that is the kind of nominee that the President will send down to us.

I yield the floor.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed for 10 minutes as though in morning business.

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

The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the Chair.

(The remarks of Mr. DANFORTH pertaining to the introduction of S. 1407,

S. 1408, and S. 1409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The Senator from Colorado is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. WIRTH. Mr. President, for the last day or so, I have been attempting to have an amendment cleared by both sides, and I wanted to take these few minutes to discuss the substance of that amendment to bring to the attention of my colleagues that amendment and, most important, to put my colleagues on notice that this important amendment is something I think they are going to want to support.

One might call this amendment, which is related to public information, the sunshine in the S&L crime business amendment. I think it is an amendment that any Senators interested in the S&L crisis and interested in the vast amount of taxpayer money that is going into the S&L crisis are going to want to support. Let me tell you why.

We are spending, Mr. President, hundreds of millions of dollars a day, billions of dollars overall, in taking over failed S&L's. The Government is going in, buying the assets of those S&L's, and paying off the depositors, in many cases with a vast amount of taxpayer money. But does the public know what is going on within that S&L, what the examination showed, why that S&L failed, what we knew in the past and ought to know in the future? Not the case.

The public is spending billions of dollars but has no idea what those dollars are going to. This amendment would require that those examinations of a failed S&L, in the case where that failed S&L is being bailed out with taxpayer money, be made public documents. We ought to know the pattern of why these institutions have failed; it ought to be a matter of public record, and we ought to be able to learn from the failures of these S&L's.

Second, Mr. President, if there is litigation surrounding the failure of an S&L, if there are lawsuits between various customers, between the customers of the S&L, and between people who have been borrowers at the S&L and board members of the S&L, and if those lawsuits are settled, do you believe that lawsuit and that settlement done with a vast amount of taxpayer money is made public? No, it is not. That is not made public either. So we have no idea who is being paid off, why the settlement was reached the way it was, and how much taxpayer money was at stake.

This amendment also would cover the settlements of lawsuits. It seems to me that the taxpayers of this country, already overburdened with billions and billions of dollars of expenditures in the S&L crisis, ought to be the beneficiary of some knowledge as to where their money is going.

I remind you, Mr. President, that we originally heard, in August 1988, from the then man in charge—the Deputy Secretary of the Treasury in charge of the S&L crisis—that the S&L crisis was going to cost us $19 billion. After that $19 billion was sent, problems were going to be resolved; that was all the money that was needed.

Soon after the election in 1988, the administration came back to us and told us that $19 billion was not adequate, that, in fact, what we were going to need was another $30 billion or $40 billion, in fact. And then not long after that, another $50 billion was added to it. So that up until this year we had gone from a modest $19 billion, Mr. President, to $80 billion.

This last week we have heard from Mr. Seidman and yesterday from the Secretary of the Treasury, Secretary Brady, that it is going to cost now another $80 billion in cash out of hand. We have gone from $19 billion through a process of a year and a half to $80 billion. And now we have added on top of that another $80 billion; a total of $160 billion being spent to clean up the S&L mess that came out of this ridiculous deregulatory scheme foisted upon the American public in 1982. We are now at $160 billion.

When that $160 billion goes out, Mr. President, the American public ought to know where that $160 billion is going: What kind of settlements were there; what kind of arrangements were in the S&L that caused it to fail to begin with; what kind of settlements were made of the lawsuits that are surrounding these. And there are a vast number of those. We gave a great degree of resources to Mr. Thornburgh down at the Justice Department to enforce all of these.

We still have not seen a great deal of them coming out. Slowly and surely, it is happening. When the enforcements occur, when these settlements occur, it ought to be a matter of public record. We ought to be able to learn from these. There will be resistance to this amendment. Bank regulators in the past very much opposed having this kind of sunshine out there.

For example, the regulators opposed changes in FIRREA that required the bank regulators to publish final orders on enforcement action. They said there would be bank runs. They said the sky would fall in. That did not happen.

The regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all their enforcement orders and agreements. They said there would be runs; they said the sky would fall in. It did not.

Most regulators do not like this kind of out in the public sunshine activity. But fortunately, there are some people in the administration who have supported this. For example, the current Chairman of the Securities and Exchange Commission, Richard Breeden, has stated:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards. . . . I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented. We disclose every enforcement action against a broker, dealer, a firm, or against an individual if it amounts to over $100 in value. And I think that's an excellent policy. And I generally think historically it's true. The bank regulators have had—there has been an attitude and approach to problems that they should—that we shouldn't worry the public, and we should try and resolve these matters confidentially. But, I think we have probably erred too much on the side of keeping matters that investors and the public should be entitled to know about, and that have a great deterrent effect when they are disclosed, that we should make more use of the disclosure of these matters.

That is from Mr. Breeden, who not only is now Chairman of the SEC, but was the White House point man on the S&L cleanup when President Bush first took office.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts, has stated on the issue of sunshine:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quite" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the federal agencies become front page news, traditional informal, nonadversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think it's clear that there has been a culture of non-disclosure in the banking world. * * * And I think that when you move forward * * * you should keep the requirement of the APA and the Sunshine Act up front and center. I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

Mr. President, I think Mr. Breeden and Mr. Breger and Justice Brandeis are right. Sunlight is the best disinfectant. It is time that we shed some light on this bank examination process as it is focused on this enormous crisis in the savings and loan industry.

To summarize, Mr. President, we are spending billions and billions and billions of dollars to buy out hundreds and hundreds of S&L's. This failed

process, this failed deregulation of the savings and loan industry, a failure that now is the greatest crisis and scandal in American financial history, that should be made public. And so far, Mr. President, it has not been.

The purpose of the amendment which I will be offering goes right to the question of sunshine in the S&L crisis.

Mr. President, I ask unanimous consent that a summary of the amendment and the amendment itself be printed in the RECORD.

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

SUMMARY OF PUBLIC DISCLOSURE AMENDMENT

In general, this amendment provides that if a bank or thrift is closed by the FDIC, or given public assistance, that the federal banking regulators will publish their prior examination reports if the deposit insurance fund is relying on taxpayer funds to meet its obligations. Furthermore, the FDIC is prohibited from entering into secret agreements to settle any claims arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

The requirements of this amendment only apply when the deposit insurance system has received appropriated funds from the U.S. Treasury, or has received a loan from the Treasury, either directly or indirectly through the Federal Financing Bank or a Federal Reserve Bank.

If a bank or thrift goes out of business, but it does not need a rescue from the deposit insurance fund, the publication requirements of this amendment do not apply. Furthermore, even if a bank or thrift does require a rescue from the deposit insurance fund, the publication requirements do not apply, unless taxpayer funds are either directly or indirectly involved in the rescue.

This amendment would apply to all savings and loan that are either resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC Resolution Fund because both of those entities had used tens of billions of taxpayer money to meet their obligations.

The publication requirements of this amendment would not currently apply to banks, because the FDIC is not currently using taxpayer funds, and has not borrowed any money, directly or indirectly, from the Treasury. However, if the Administration's proposal for the FDIC to borrow $70 billion from the taxpayer becomes law, the publication requirements would be effective for as long as that potential taxpayer liability was outstanding.

If the regulators believe that publication of an examination report would seriously threaten the safety or soundness of any insured institution, they may delay the publication of an examination report for up to 6 months.

Under current law, important information related to a bank or thrift failure is unavailable to the public even when taxpayers' funds are used to cover the institution's losses. In many cases, settlements of lawsuits filed by the government against individuals and businesses involved in a financial institution's failure are sealed. In addition, the examination reports of financial institutions are also not available to the public for review. This material can provide valuable insight into why an institution failed and it became necessary to use tax dollars to cover the institution's losses.

AMENDMENT TO S. 1241

At the appropriate place in the bill, insert the following new title:

TITLE —PUBLIC INFORMATION CONCERNING FAILED DEPOSITORY INSTITUTIONS

SEC. 01. AVAILABILITY OF EXAMINATION REPORTS.

(a) PUBLIC AVAILABILITY OF INFORMATION.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each institution described in section 04, or of a holding company of such institution, that was performed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or any predecessor thereof, during the 5-year period preceding the transfer, failure, or receipt of funds described in section 04.

(b) DELAY OF PUBLICATION.—If the appropriate Federal banking agency makes a determination in writing that publication of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may delay publication of the examination report for a reasonable period of time, not to exceed 6 months from the date of the transfer, failure, or receipt of funds described in section 04.

SEC. 02. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 04, shall be published and made available to the public.

SEC. 03. APPLICABILITY.

The requirements of section 01 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation; and

(2) to any member of the Bank Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Bank Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance; and

(3) to any member of the Savings Association Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Savings Association Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation—

(i) has been appointed as conservator or receiver for such institution; or

(ii) has exercised the power to provide assistance under section 13(c) of the Federal Deposit Insurance Act or section 21A of the Federal Home Loan Bank Act; or

(B) a bridge bank has been established under section 11(i) of the Federal Deposit Insurance Act;

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise; and

(3) the term "insured depository institution" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent, as in morning business, to be permitted to introduce a bill and make a short statement.

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

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1412 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. 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 Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 1400 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I ask unanimous consent to proceed as in morning business.

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

The Senator from Oklahoma is recognized.

Mr. BOREN. I thank the Chair.

(The remarks of Mr. BOREN pertaining to the introduction of S. 1407, S. 1408, and S. 1409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed, not to exceed 10 minutes, as though in morning business.

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

TRIBUTE TO GEN. A.M. GRAY, COMMANDANT, U.S. MARINE CORPS

Mr. SYMMS. Mr. President, there is a definition of leadership in a 1991 Drill & Ceremonies Manual of the Royal Canadian Air Force which reads as follows:

> Leadership depends on simple human qualities; above all a leader requires the confidence of his men and this is to be gained only by commanding their respect for his personal character and professional knowledge, his sense of justice and his common sense, his energy, keeness of forethought; his indifference to personal danger and readiness to share his men's hardships; his cheerfulness in the face of difficulties, the clearness and simplicity of his orders and his firm insistence on their execution; the pride he takes in his command.

Mr. President, those are fairly high standards. It is hard to imagine someone consistently meeting those standards. It is equally difficult to find an individual who not only is the epitome of those standards but infuses them in all who serve with and for him.

Today, Mr. President, it is my privilege to pay tribute to such a person, Gen. A.M. Gray, Commandant of the U.S. Marine Corps.

Mr. President, on June 28, which will be tomorrow, at the Marine Barracks in Washington, DC, the command of the Marine Corps will pass for the 29th time in our Nation's—and the corps'—history. It will be the last official ceremony of the 29th Commandant of the Marine Corps.

Mr. President, this occasion cannot pass this body without giving appropriate recognition to General Gray, whose career of dedicated military service equals that of his country's most renowned military leaders.

General Gray enlisted in the Marine Corps in 1950. In 41 years Private Gray rose to Commandant of all marines. He led marines at all levels, from a squad to a marine expeditionary force to a fleet marine force, prior to being appointed by the President to become Commandant of the Marine Corps. He saw combat first in Korea, initially as an enlisted infrantryman, and again as a second lieutenant forward observer for an artillery battery. In the Southeast Asia conflict he served over 3 years. His personal decorations for valor and outstanding service are numerous. There is no question, Mr. President, Al Gray is one of America's foremost warriors.

Mr. President, there is more to Al Gray than just being a warrior. That service alone is not what places him among the greatest leaders. What places him among the foremost military leaders is his love for his country, his love of his corps, his infectious leadership and, most importantly, his vision.

For 41 years at every level of organization in the Marine Corps, General Gray dedicated himself to providing this Nation a professional, highly trained, well disciplined corps capable of responding on a moment's notice to unanticipated crises throughout the world—a corps of warriors who can come from the sea in defense of our Nation and its interests.

Mr. President, we in the Congress never heard from General Gray that if the corps did not receive all they asked for they could not do the job. When he thought that they were trying to cut him too much, he said we cannot do it. But most of the time what we heard is "Whatever you feel you can give the Marine Corps, we will use it to accomplish our mission to the best of our ability." That is the attitude that is the epitome of General Gray. And he has instilled that mindset into all who have had the privilege to serve under his command.

Mr. President, today we have a Corps of Marines—as General Gray calls them, a corps of warriors—who know that they can get the job done. All one had to do was watch the events that took place in the Persian Gulf recently to see what the 1st Marine Division, the 2d Marine Division, and the important role that they played in the liberation of Kuwait City—the importance of the Marine aviation units, that they played in that event, in that crisis—to know that General Gray had a vision which could anticipate what the possibilities were going to be in the world. He recognized that this Nation would need a highly professional naval expeditionary force. He then set his marines on that course, and strove to articulate what that asset could mean to our country.

In all forums, here and elsewhere, no one in this country has been more eloquent in making the case for the Marine Corps' role as the Nation's leading force in readiness, the point of the spear in our national defense.

He reemphasized the Marine Corps back to basics in training, dedication, and professionalism. He ensured that every marine, from private to Commandant, was ready to receive our Nation's call in the time of crisis as well as in the future.

At the same time, General Gray dedicated his energy to ensuring the corps was ready to enter the 21st century. He looked forward into the future. He identified what would be needed to fight the future battles and win, and then set out to convince those in our Military Establishment what was needed in command, control, firepower, mobility, night capability, to ensure that the corps would come from the sea and win in the next century.

Finally, Mr. President, General Gray's vision foresaw that future conflicts would be met by combined forces and ensure that his Marine air-ground forces training with and were prepared to fight with all of the other U.S. forces in combined operations.

In short, General Gray prepared his marine warriors for all contingencies anywhere in the world, and Desert Storm was the test of his vision. The course of professionalism, readiness and capability was put on the line. The result is known by all.

We can thank the leadership of Gen. Alfred Gray for the corps we have today, and those others that have gone before him. The corps will miss such a leader, and this Nation will truly miss a great patriot who has magnificent vision.

Mr. President, I say thank you, General Gray, for a job well done; thank you for preparing those who follow to lead our sons and daughters in the tradition of the U.S. Marine Corps.

I also say to my colleagues, and I would also say to our President at the other end of Pennsylvania Avenue, we should continue to call on General Gray to help us make the tough decisions that we will continue to face in protecting our Nation's freedom and the freedom of our friends around the world.

Mr. President, I hope that this administration will call on this fine man for further duties in terms of preparing for the defense of peace, freedom, and liberty on this globe.

Mr. President, I yield the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following list of first-degree amendments be considered in the order of their sponsors' arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments except for those that the two managers have cleared for consideration.

The list of amendments is as follows:

The Glenn amendment on the Bureau of Prison study.

The Dixon amendment on international child abduction.

The Bryan and Metzenbaum amendment on insurance fraud.

The Durenberger amendment on child abuse registration.

The D'Amato amendment on increased penalties for illegal alien smugglers.

The Kasten amendment on rural crime.

The Kasten amendment on crimes against the elderly.

The Sanford amendment on limits on administrative spending.

The Bingaman amendment on juvenile border crime.

The Bingaman amendment on national commission to study border crime.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, Mr. President, I ask the distinguished floor manager: There is no time agreement then that would be placed on the bill or no other limitation after the disposition of this unanimous-consent agreement; is that correct?

Mr. BINGAMAN. That is correct.

Mr. SYMMS. I have no objection.

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

AMENDMENT NO. 415

(Purpose: To assist States, local governments, and community-based organizations in developing, operating, and coordinating effective programs to address and reduce the unique crime and drug-related problems faced by juveniles and their families living near our Nation's international borders)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 415.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 172, between lines 23 and 24, insert the following:

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public and private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Ports of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the cost of the programs.".

On pages 172, 173, and 174 redesignate sections 233, 234, 235, and 236 as sections 234, 235, 236, and 237, respectively.

Mr. BINGAMAN. Mr. President, the amendment I have sent to the desk on behalf of myself and Senator DOMENICI relates to the very real and growing problem of youth crime and drug abuse in a particular area of the United States that involves my home State of New Mexico.

The 2,000 mile border between the United States and Mexico is one of the fastest growing regions, both of this country, and of our neighboring country of Mexico. Between 1950 and 1980, the population of Mexico's six border States tripled from 3.7 million to 10.7 million. During the same 30-year period, our four United States-Mexico border States doubled in population from 19.8 million in 1950 to 41.9 million in 1980.

This enormous population growth has created many economic opportunities for residents on both sides of the border. Unfortunately, the growth has also led to an increase in a number of social and familial problems, including the serious problems of crime and illegal drug abuse. Auto theft, illegal immigration, and drug smuggling are among the more publicized crimes occurring along our borders. But more and more frequently, evidence is pointing toward a growth in other crimes. And more and more frequently, these crimes, whether robbery, arson, drug trafficking, or illicit drug use, involve young people, our Nation's school children.

This amendment is specifically targeted at these youth. First, it proposes that we add a modest and extremely beneficial grant program to the Antigang Grants Program authorized under title XV of the Youth Violence Act. The grants I envision here would help States, local government, and nonprofit organizations develop effective, innovative programs aimed at addressing the unique problems that border communities and their juvenile residents face in dealing with the temptations of crime and illegal drug and alcohol use.

Mr. President, I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 415) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote.

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

The notion to lay on the table was agreed to.

AMENDMENT NO. 416

(Purpose: To direct the Commission on Crime and Violence to include in its purpose and responsibilities, recommendations for improving coordination of international border crime control efforts and an examination of the impact increased international trade and border development has had on crime and violence in the United States, particularly with respect to youth)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI proposes amendment numbered 416.

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

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

The amendment is as follows:

On page 196, line 5, after "State" strike "and" and insert a comma.

On page 196, line 5, after "Federal" insert the following: ", and international border".

On page 196, between lines 14 and 15, insert the following:

"(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.".

On pages 196 and 197, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

Mr. BINGAMAN. Mr. President, this amendment deals with the same set of issues that the previous amendment dealt with. This amendment would direct that the Commission on Crime and Violence, which this overall bill creates, expand its purpose and its responsibilities to include the issue of border crime.

I believe this added duty could be a crucial part of the comprehensive and effective crime control plan that we are charging this Commission with developing. Certainly, the Commission's national blueprint for action in the 1990's will not be complete unless it addresses the growing national problem of crime along our international borders.

Mr. President, as you know, the Senate recently voted to extend to the

President the fast-track trade negotiating authority to negotiate an agreement with Mexico. This extension is expected to result in a free-trade agreement with Mexico within the next few years.

If such an agreement is entered into, undoubtedly, it will result in increased trade with our neighbor to the south, and it will further boost population expansion on both sides of the border.

We have taken steps to provide for the tremendous growth on the border. We are, for example, increasing ports of entry in my home State of New Mexico, I am pleased to say. While these ports of entry will allow my State to reap some of the potential benefits of trade with Mexico, they will also provide greater opportunity for criminal activity.

I am especially concerned about the increased potential for criminal activity, particuarly as it involves children and teenagers in that border area.

In addition to providing for increased trade with Mexico and establishing new ports of entry, I believe we need to begin to provide for a social infrastructure on the border. We must begin to support the border States like New Mexico in their efforts to coordinate law enforcement along that border.

That is why I am proposing we add two additional duties to this Commission on Crime and Violence mandate. As part of its development of a comprehensive and effective crime plan, we should direct the Commission to, first of all, recommend improvements in the coordination of local, State, Federal, and international border crime control efforts; and second, to examine the impact of enhanced and/or new international trade agreements, immigration, and increasing numbers of international parts of entry on crime and violence in the United States.

In my opinion, these two additions are essential if the Commission's report is truly to be a blueprint for national action on crime control in the 1990's. We need to draw special attention to the problems facing youth along the international borders. These amendments will do that.

Mr. President, I believe this amendment, as with the previous amendment that was considered by the Senate, is a useful addition to the legislation we are considering.

I believe that we must draw special attention to the problems facing youth living along our international borders. In addition to providing educational opportunities and routine, basic, and preventive health care, we must also work to lessen the temptations of crime, drug trafficking, and drug use that our youth face. For this reason, I am proposing that we authorize, under title XV of the Youth Violence Act, a special category of grants specifically targeted as border communities and their young residents.

The grants I envision would allow States, local governments and nonprofit organizations to:

Establish model anticrime and antidrug and alcohol use programs for testing and replication; and

Specifically focus efforts at international ports of entry and other border towns, including those located in rural areas.

Mr. President, I believe these are both important amendments, and I urge my colleagues to support them.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 416) was agreed to.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 417

(Purpose: To limit the amount of funds made available to state and local agencies and private entities under the authorities of the bill that may be used to pay administrative costs)

Mr. SANFORD. Mr. President, a couple of years ago, I noted, in following through with efforts we were making to control the drug problem, an official of my State had built himself quite an administrative substructure with the drug money that he obtained from the Federal Government.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 417.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) sections 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

Mr. SANFORD. Mr. President, my amendment places ceilings on the amounts of funds available for administrative purposes under the various provisions of the Biden bill.

Four areas are affected by this amendment, which is intended to ensure that the moneys provided to the States are used to the greatest extent possible for the programs themselves, and not to further layer and encumber the bureaucracy.

Specifically, this amendment limits to 5 percent the amount of funds available for administrative purposes for regional prisons. It limits to 5 percent the amount of funds available to the States for administrative purposes for major drug-related emergency grants.

In addition, it limits to 10 percent the amount of funds available for administrative purposes for antiaging grants, programs which include education, prevention, treatment, enforcement, reduced juvenile drug trafficking and gang prevention, and the use and sale of illegal drugs by juveniles.

Finally, the amendment limits to 10 percent the amount of funds available to the States for rural law enforcement agencies.

I believe that it is not necessary to provide large sums for administrative purposes. The States can handle that. I recognize that to limit this fund too severely invites debate away from the real point at issue. I would have preferred a 2-percent limit. This amendment says that these programs are important and that there needs to be assurances that the focus is on the program itself. Far too often we have found that what is listed in the name of administrative costs turns out to be more than a matter often ensuring some kind of job security or administrative entrenchment. Such activity neither benefits the program nor the people who need to participate in that program the most.

I want these programs to succeed and I want them to be available to as many people as possible. This amendment will, I hope, move in the direction of achieving that goal.

Mr. President, I understand that this amendment has been cleared on both sides. I thank the floor managers of the bill for their support of this proposal.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? Is there objection? Without objection, the amendment is agreed to.

So the amendment (No. 417) was agreed to.

AMENDMENT NO. 418

(Purpose: To protect insurance consumers from fraudulent activities in connection with the business of insurance)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. METZENBAUM, proposes an amendment numbered 418.

Mr. BRYAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —INSURANCE CONSUMER PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act."

SEC. 02. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

"(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1033. Crimes by or affecting persons engaged in the business of insurance"

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzlers, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance' has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance,".

SEC. 03. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515 (a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

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

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

Mr. BRYAN. Mr. President, as part of our efforts to address our Nation's crime problem, this amendment will combat fraud and corruption in our Nation's insurance industry. Insurance fraud is a growing problem, and has now become one of the key areas of concern for State insurance regulators.

As chairman of the Commerce Committee's Consumer Subcommittee, I began holding hearings earlier this year to examine the financial health of our Nation's insurance industry. This examination was begun in response to the growing number of failures in the insurance industry. Over the past decade, insurance company failures have grown from an average of 4 to close to 20 per year. These failures have amounted to billions of dollars of losses, which are ultimately borne by policyholders, taxpayers, and consumers, through lost investments, bailouts, and increased rates.

In just the last 2 months, we have witnessed four of the largest failures in the history of the insurance industry. These failures include the takeovers of the Executive Life Insurance Co. of California and its subsidiary, Executive Life of New York; the First Capital Insurance Co. located in California; and the Fidelity Bankers Insurance Co. located in the State of Virginia. These three companies combined represent over $80 billion of business, and involve more than 800,000 policyholders. Evidence from hearings held in the Commerce Committee show that these 800,000 policyholders who are located in all 50 States, are now at considerable risk of losing their investments and life-long savings.

In March of last year, a study was released by the House Energy and Commerce Subcommittee on Oversight and Investigations on insolvency in the insurance industry, the study, which entailed a 3-year investigation of the industry, found that company fraud has become one of the primary contributing factors to insolvency in the industry. Such fraud includes deliberate misrepresentations to consumers and policyholders regarding the value of policies and the financial condition of companies, falsification of financial records, and submission of false financial statements to State regulators—all of which severely complicate the

ability of State officials to monitor the financial condition and operations of insurance companies.

The insurance industry, like many financial industries, has experienced tremendous growth and change over the past three decades. What used to be primarily a parochial business has now developed into a major interstate and international enterprise. As a result, the fraud that exists today in the insurance industry is not confined to simple and isolated incidents that can be easily detected by local officials, but involves very complex multistate and international schemes. Since the adoption of the McCARRAN-FERGUSON Act in 1945, the regulation of insurance companies has been reserved to the States. The States themselves, however, have recognized that the current multistate regulatory structure is an enormous obstacle to their ability to guard against complex fraudulent operations that extend across State lines, and have requested introduction of legislation such as the amendment I am offering today. A few notable examples of these fraudulent interstate schemes are the failures of the Beacon & Northwestern Security Insurance Co. of the State of North Carolina.

In 1984, the North Carolina State Insurance Department moved to take over the Beacon Insurance Co., which was in a seriously financially impaired condition. Upon the takeover of the company, it was discovered that the company was actually owned by a Bermuda company, which, in turn, was owned by a Nebraska company. The company was managed by a firm in Dallas, TX, and had only one shareholder. The company also failed to report to State regulators millions of dollars of business it wrote in London in the required time period. The company is now insolvent by over $100 million. The company's creditors are located throughout the country and the world. State regulators are faced with major legal and financial difficulties in the prosecution of any official responsible for the company's downfall.

Another example, Northwestern Security, involved a company that was domiciled in the State of North Carolina, but was controlled by two shell corporations located in the States of Florida and California. The company was managed by officials in California, who transferred over $10 million from the company almost immediately after they acquired the company.

Regulators also have been unable to account for millions of dollars that were in the hands of company officials. Like the Beacon case, regulators face major obstacles in the prosecution of any of the company officials.

Because of the difficulties faced by regulators in pursuing these fraudulent operations, they have now requested the assistance of the Federal Government. They have recognized the need for uniform criminal laws that specifically address insurance fraud, and are in strong support of the legislation we are introducing today.

Mr. President, I ask unanimous consent that a letter written by the National Association of Insurance Commissioners, a body that consists of insurance regulators in each of the 50 States be printed in the RECORD. This particular letter is addressed to me, dated June 25, 1991, signed by the president of the National Association of Insurance Commissioners, Mr. James E. Long, and by its vice president, Mr. William H. McCartney.

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

NATIONAL ASSOCIATION
OF INSURANCE COMMISSIONERS,
Washington, DC, June 25, 1991.

Hon. RICHARD H. BRYAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: We write to you, as the officers of the National Association of Insurance Commissioners (NAIC) in support of your amendment to S. 1241 which would establish as a Federal criminal offense certain types of insurance fraud that State regulators have been found to be key contributors to some insurance insolvencies.

All of us who have been charged with the protection of insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators, con artists who ply their trade from board room, office penthouse, or agency. The business of insurance, in which money is exchanged for little more than a promise to pay later, seems to attract these criminals.

While State insurance regulators, in cooperation with State and Federal law enforcement officials, have pursued the perpetrators of insurance fraud using both State and Federal criminal statutes, we have come to realize that existing Federal and State laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear; there simply is no statute which:

specifically addresses insurance fraud, and prescribes strong criminal penalties, and

can be used in the prosecution of complicated, multi-state and international schemes, and

provides investigators and prosecutors with a statute of limitations which provides enough time for the preparation of a solid case.

Your amendment to the crime bill would fill all of these gaps in existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with the stroke of a pen. We commend you for your intitiative in this worthy effort.

Sincerely,

JAMES E. LONG,
NAIC President, Commissioner of Insurance, North Carolina.
WILLIAM H. MCCARTNEY,
NAIC Vice President, Director of Insurance, Nebraska.

Mr. BRYAN. I might also add parenthetically that I visited with Mr. McCartney just this afternoon, and he orally reinforced the statements that are contained in the letter, which is now a part of the RECORD, in expressing the strong support of the National Association of Insurance Commissioners for the amendment which Senator METZENBAUM and I are offering this evening.

The legislation establishes stiff Federal criminal penalties in an attempt to deter and guard against company fraud. The bill specifically provides criminal penalties for knowingly filing false financial statements; the embezzlement or theft of company funds; the falsification of company records with the intent to defraud the company, policyholders, and creditors; and the criminal obstruction of State regulatory proceedings. Under the terms of this amendment, any person found guilty of submitting false statements, embezzlement, or falsifying company records, would be subject to a fine of up to $1 million, and up to 30 years of imprisonment.

In addition, the legislation would ban any individual who has been convicted of any of the offenses under the statute from engaging in any insurance related activities, except with the specific approval of the authorized State regulator. This provision is designed to prevent scam operators from jumping from company to company in one State to another. The legislation also provides for the forfeiture of any assets or moneys fraudulently obtained by company officials.

Mr. President, I believe this legislation provides effective new tools to deter and prosecute insurance fraud. It is strongly supported by State insurance regulators and is very much needed for the protection of consumers. I urge all of my colleagues to join with us in supporting this amendment.

Mr. President, I also ask unanimous consent that letters of support be sent on behalf of the insurance commissioner in the State of California, the superintendent of insurance in the State of New York, the insurance commissioner in the State of South Carolina, the insurance commissioner in the State of Iowa, the insurance commissioner in the State of Missouri, and the insurance commissioner in the State of Wyoming also be printed in the RECORD.

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

INSURANCE COMMISSIONER,
Sacramento, CA, June 25, 1991.

Hon. RICHARD BRYAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRYAN: On behalf of millions of California insurance consumers, I am pleased to add my voice of support to your efforts to broaden and strengthen Federal criminal sanctions against insurance fraud.

Your amendments to the Federal crime bill currently before the Senate, embodying proposals from the National Association of Insurance Commissioners, would strengthen

our hand at the state level by imposing penalties worthy of the crimes involved, and by acknowledging the complex interstate nature of the acts certain sophisticated "white collar" wrongdoers commit.

I hope your colleagues will come to the aid of the insurance commissioners in their own states by supporting this legislation.

Sincerely,

JOHN GARAMENDI.

STATE OF NEW YORK
INSURANCE DEPARTMENT,
New York, NY, June 25, 1991.

Hon. RICHARD BRYAN,
Chair, Subcommittee on Consumer Protection, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: On behalf of Governor Cuomo and the New York Insurance Department I commend and support your efforts to amend the pending legislation on federal crimes and criminal procedure to specifically cover offenses committed in connection with the business of insurance. New York was pleased to chair the NAIC Task Force that drafted the proposal from which you have adapted your amendment.

These provisions, if enacted, would strengthen and complement our ongoing efforts to deter and detect financial crimes committed against insurers, producers and others in the business of insurance to the detriment of honest policyholders, claimants and insurance businesses. The amendments would expressly outlaw such offenses as the knowing filing of false financial statements with state insurance regulators, embezzlement of insurance company monies, falsification of insurance corporate records with intent to defraud, and obstructing state insurance regulatory proceedings. In addition to imposing lengthy jail terms and fines up to one million dollars, the amendments would generally bar insurance related activity by anyone convicted of those offenses. This legislation also lengthens the applicable statute of limitations to afford federal prosecutors sufficient time to fully investigate and prepare for prosecutions that frequently involve numerous and complex multi-state transactions.

In our view, existing federal laws on mail and wire fraud are inadequate to fully deter these kinds of crimes. Moreover, the current five-year statute of limitations is insufficient to enable prosecutors to unravel complicated schemes perpetrated across state and often international borders.

Passage of these amendments would enable our Department and other state regulators, along with the NAIC, to work effectively with the Justice Department and United States Attorneys in this critical area. Insurer solvency and consumer satisfaction are both too important to be subverted by fraud, theft and obstruction. These amendments will materially assist state insurance regulators in meeting their responsibilities to achieve both goals.

Sincerely,

SALVATORE R. CURIALE,
Superintendent of Insurance.

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE,
Columbia, SC, June 25, 1991.

Hon. STROM THURMOND,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR: As the Chief Insurance Commissioner of South Carolina and as a member of the National Association of Insurance Commissioners, I would like to voice my strong support for the enactment of a federal statute making certain types of fraudulent activities conducted in connection with the business of insurance a federal crime. It is my understanding that an amendment to S. 1241, which is now being considered by the United States Senate, will be offered in the very near future by Senator Richard H. Bryan of Nevada. We hope that you will actively support the adoption of this amendment.

Senator, the NAIC adopted a resolution at its spring meeting in Charleston, West Virginia, endorsing this proposal. We believe the passage of a federal statute will better address the multi-state nature of many of the fraudulent activities committed by an officer, director, agent or employee of an insurance company engaging in interstate commerce.

We thank you for your consideration of this matter, and if I can ever be of assistance to you, please do not hesitate to write or call.

Respectfully,

JOHN G. RICHARDS,
Chief Insurance Commissioner.

INSURANCE DIVISION,
IOWA DEPARTMENT OF COMMERCE,
June 25, 1991.

Hon. Senator CHARLES GRASSLEY,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRASSLEY: I write to you in support of an amendment to S. 1241 which would establish as a federal criminal offense certain types of insurance fraud that state regulators have found to be key contributors to some insurance insolvencies (offered by Senator Bryan).

All of us who have been charged with the protection of insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators, con artists who ply their trade from board room, office penthouse, or agency. The business of insurance, in which money is exchanged for little more than a promise to pay later, seems to attract these criminals.

While state insurance regulators, in cooperation with state and federal law enforcement officials, have pursued the perpetrators of insurance fraud using both state and federal criminal statutes, we have come to realize that existing federal and state laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear: there simply is no statute which:

Specifically addresses insurance fraud; and

Prescribes strong criminal penalties; and

Can be used in the prosecution of complicated, multi-state and international schemes; and

Provides investigators and prosecutors with a statute of limitations which provides enough time for the preparation of a solid case.

The Bryan amendment to the crime bill would fill all of these gaps in existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with the stroke of a pen. I would respectfully ask for your support of this amendment.

Sincerely,

DAVID J. LYONS,
Commissioner of Insurance.

STATE OF MISSOURI DEPARTMENT OF
ECONOMIC DEVELOPMENT, DIVISION
OF INSURANCE,
Jefferson City, MO, June 26, 1991.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: It is my understanding that Senator Richard H. Bryan of Nevada may offer an amendment today to S. 1241 establishing as a federal criminal offense certain types of insurance fraud. I urge you to support that amendment to bar the types of activities which have been found by state regulators to be key contributors to insurance insolvencies.

All state regulators charged with the protection of the insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators who are merely glorified con artists who ply their trade from board rooms rather than the streets. The business of insurance is based upon an act of faith in which money is exchanged for a promise to pay later, an activity which seems to attract these criminals.

While state insurance regulators, in cooperation with state and federal law enforcement officials, have pursued the perpetrators of insurance fraud using both state and federal criminal statutes, we have come to realize that existing federal and states laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear; there simply is no statute which:

Specifically addresses insurance fraud; and

Prescribes strong criminal penalties; and

Can be used in the prosecution of complicated, multi-state and international schemes; and

Provides investigators and prosecutors with statute of limitations which provides sufficient time for the preparation of a solid case.

I believe that Senator Bryan's proposed amendment to the crime bill would fill all the gaps in the existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with nothing but their autograph.

Your support of Senator Bryan's amendment would do much to protect your fellow Missourians and all other insurance consumers for fraudulent insurance activities. I would be happy to discuss the amendment with you or your staff members.

Sincerely,

LEWIS E. MELAHN,
Director.

STATE OF WYOMING,
INSURANCE DEPARTMENT,
Cheyenne, WY, June 25, 1991.

Hon. ALAN K. SIMPSON,
U.S. Senate,
Dirksen Building,
Washington, DC.

DEAR ALAN: At a recent meeting of state insurance commissioners, I actively supported the proposal to solicit legislation that would make certain types of insurance fraud a federal offense. After what, we have been going through with the liquidations of Oxford, Commerical General and Laramie Insurance, it is painfully obvious that state statutes are simply inadequate when attempting to pursue the crooks that were involved in these kinds of inter-state operations.

Senator Richard Bryan has proposed an amendment to S. 1241 that appears to ad-

dress the very problems that we have experienced. It purports to specifically address insurance fraud, prescribes strong criminal penalties, is appropriate to complicated, multi-state schemes, and provides a statute of limitations long enough to prepare a solid case. I believe that the proposal is essential and strongly urge that you give it your closest attention. It's adoption will be a major help to us here in Wyoming and has the support of the vast majority of insurance commissioners throughout the country.

Best personal regards and stay in good health, old friend. We need you.

Sincerely,

KEN ERICKSON,
Commissioner.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. BRYAN. If the Senator will suspend a moment, I would like, before he takes the floor, to acknowledge publicly, to Members of this body as well as others who might be interested, the outstanding work that Senator METZENBAUM has performed over many years of service in inquiring into the operation of insurance companies and other related activities and the very strong and active participation and support we have had in drafting the amendment which we ask consideration for this evening.

His support has been appreciated. It has been in the public interest. I think insurance policyholders, taxpayers and ratepayers all over America, Mr. President, will benefit as the result of the effort Senator METZENBAUM has put into this particular amendment.

Mr. METZENBAUM. Mr. President, I am pleased for the kind comments of my colleague from Nevada. It is very complimentary. It is a privilege to have had the opportunity to work with him in connection with matters of insurance, as well as so many other matters. He brings a wealth of knowledge to this subject and with his background as a former Governor of his State I think he understands the problem as well or better than any of us here in the Senate.

I am very pleased to join him as a cosponsor of this legislation that will impose Federal criminal sanctions for insurance fraud. For the first time Federal prosecutors will be given the needed tools to help deter insurance fraud and protect the millions of policyholders who purchase life, health, and property and casualty insurance policies.

The Insurance Consumer Protection Act, is a step in the right direction in our fight against white-collar crime. This amendment recognizes that in order to stop insurance fraud by insiders you must go after the executives, directors, officers, agents, and others who participate in fraudulent schemes, loot insurance companies, and leave consumers holding an empty bag.

Federal law enforcement officials now believe that insider insurance fraud is the No. 1 trend in white-collar crime. One has only to pick up a newspaper to read about the latest insurance scandal. Sophisticated white-collar insurance swindlers use a variety of fraudulent schemes to practice their trade, including overvaluing assets, investing in questionable deals, setting up bogus insurance companies, embezzling funds, filing false financial statements, and bribing State officials.

White-collar insurance fraud is a nationwide problem.

In Wyoming, a former insurance executive rented assets from another insurance company for a short time to give State regulators the illusion of solvency.

In Florida, the founder of an insurance company masterminded a scheme to drive a competitor out of business by saddling the competitor with hundreds of bogus life policies.

In Texas, a former insurance executive used a health benefits scam to defraud churchworkers of millions of dollars. The executive set up a health plan for church employees nationwide, then siphoned more than $1.6 million for himself—plus a salary and expense account.

In North Carolina, a former owner and chairman of an insurance company was indicted in State and Federal courts on 90 counts of bribery, and mail and bank fraud. The fraud involved the alleged theft and misapplication of more than $37 million in insurance premiums over 5 years.

And the list could go on and on.

According to John Saxton, former chairman of the Texas State Board of Insurance, virtually anyone can go out and start an insurance company. In Mr. Saxton's words:

> I could go out and start an insurance company, * * * sell you the best-looking policy in the world at half what it is being sold by another company, * * * generate all this cash flow, and I can run $10 million through my company before the State board ever knew what was going on and be in Switzerland and gone * * *.

Like the savings and loan industry, the insurance industry has suffered many insolvencies as a result of fraud. Last year a special grand jury investigated 60 belly-up Texas insurers and found fraud in half of them.

Stories of executives who paid themselves kingly salaries, while they lavished policyholders' money on outlandish business deals to benefit themselves and their friends, bear an alarming similarity to what happened in the S&L debacle.

Efforts by State regulators to monitor fraud in the insurance industry have been an abysmal failure. State regulation of insurance varies from State to State, and is often handicapped by outmoded equipment, improperly trained personnel, and meager budgets. Fewer than half of the States have antifraud units. Less than 6 percent of the taxes that States collect on premiums—this is an amazing figure—less than 6 percent of the taxes that States collect on premiums is spent on insurance regulation, and fewer than half the States conduct on-site financial examinations at least every 3 years.

According to the GAO:

> When State insurance laws and regulations are violated, or when companies become insolvent, there is very little apparent investigation and enforcement to punish offenders * * *. State regulators do not aggressively look for the causes of wrongdoing and gross mismanagement, or issue sanctions and penalties when they are found. State law enforcement also seems lax in prosecuting insurance violations * * *.

To make matters worse, available penalties are out of step with the needs of today. Persons responsible for the insolvency of an insurance company usually face only the prospect of civil litigation arising from their breach of duty. And that is not very significant. Those suits, even when brought, are hampered by problems of proof and documentation. Without adequate enforcement and suitable penalties, there is little reason for potential violators to follow the law.

With respect to State criminal penalties, the attorney general of Louisiana observes that:

> It is absolutely amazing, even astounding, that a person who robs a convenience store—in Louisiana—with a gun, stealing a few dollars, may be sentenced to 99 years in prison. Yet, one who robs with a fountain pen and computer depriving our economy of millions of dollars, will suffer less than 3 years under the criminal provisions in both our insurance and banking codes.

Moreover, the National Association of Insurance Commissioners [NAIC] acknowledges that State law enforcement agencies do not have the capability to conduct complex nationwide or foreign investigations and pull together a single prosecution. For that reason, the Nation's insurance commissioners support this amendment, as has already been pointed out by my colleague from Nevada. They cite the case of Beacon Insurance Co. as an example of why this amendment is necessary.

The Beacon Insurance Co., in rehabilitation since 1984, had its domestic office in Winston-Salem, NC, and was owned by a Bermuda company which, in turn, was owned by a Nebraska company with its only shareholder located in Texas. Beacon was managed by a firm in Dallas. Beacon opened an underwriting agency in London, which wrote millions of dollars of business which was not reported on its financial statements in the required timely manner. Beacon is now insolvent by more than $100 million and its creditors are located around the country and across the globe. Prosecution of anyone responsible for the company's downfall in a State court would require extradition on a massive scale, and could fail due to jurisdictional problems.

Current Federal law enforcement efforts are also of little help. Looting an

insurance company is not itself a Federal crime, and the 5-year statute of limitations on mail and wire fraud has often run before a case can be successfully developed.

Fearing that white-collar insurance crooks are slipping through the patchwork of State laws, the Justice Department recently created a special insurance fraud prosecution unit. The Justice Department has also organized five insurance task forces in troubled areas around the country. The Insurance Consumer Protection Act will go a long way in giving Federal prosecutors the tools they need in their fight against white-collar crime in the insurance industry.

The Insurance Consumer Protection Act establishes Federal criminal penalties for:

Knowingly filing false financial statements and reports;

Embezzlement or theft of company funds;

Falsification of company records with the intent to defraud the company, policyholders and creditors; and

Criminal obstruction of State regulatory proceedings.

Penalties under the bill range from $250,000 to $1 million in fines and/or 30 years imprisonment. In addition, the legislation prohibits individuals who have been convicted of any offense under the act, or any criminal offense, from engaging in the insurance business except with the specific approval from State insurance regulators.

I enthusiastically support this bill because it will help stop white-collar fraud in the insurance industry. It's time to send a clear and unmistakable message to the swindlers, con men, and crooks who would pillage our Nation's insurance companies that their fraudulent activities will no longer be ignored or tolerated.

The Insurance Consumer Protection Act strikes a crippling blow to white-collar crime in the insurance industry. We call ill-afford to stand by and watch another financial industry destroyed.

I again congratulate Senator BRYAN for his leadership in bringing this amendment forward and urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. Is there further debate? Is there objection to the amendment? The Senator from Kentucky.

Mr. FORD. Mr. President, I am not opposed to this amendment that is being proposed now by the Senator from Nevada and the Senator from Ohio. Having been Governor, as my good friend from Nevada, I understand the problems from a State level nearly as well as he does. One thing I am afraid we are getting here is the imagery of the insurance industry. I have heard no kind words said about the insurance industry at all; maybe it is all bad. But out of 20 insurance companies that are insolvent annually, as I heard the Senator from Nevada say, can anyone tell me how many insurance companies are in business today? Thousands?

Mr. METZENBAUM. About 5,000.

Mr. FORD. Five thousand; 5,000 insurance companies, at least. They are doing better than banks. A lot better than savings and loans.

So, Mr. President, I am not going to object to the amendment. I think it is fine, and I think if we had this kind of law as relates to savings and loans, maybe we would have saved something there. But with 5,000 or more insurance companies, and the possibility of 20 having problems during a year, that, it seems to me, is something that ought to be said rather than no kind words: There are no good insurance companies, they are all bad, we have to get after them, we have to stick it to them.

That is well and good but at some point along the way you ought to say there are some good ones. We have some good savings and loans. Not one went bad in Kentucky. Not one bank went bad in Kentucky, yet we can paint with the broad brush with savings and loans and banks.

So I hope with the imagery being left here by my colleagues, we would only say we want to prevent anything else from happening. I think this is getting there, before we let the horse out of the gate. But I still think there should be at least some kind words said about some good insurance companies that are out there doing a good job, fighting every day to protect the individuals. They do not make as much money as they used to. They have enough in reserve that they have been able to be strong. Some are stock companies, some are mutual companies, but all of them are doing very well.

As I say, I am not objecting to the amendment that is before us, but just trying to prevent a tendency that we get around here, that once we bring an amendment it is all downhill. We say there are no good ones out there. Every once in a while you find a bad apple on a tree but you get several bushels of apples on a tree.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would say to my colleague from Kentucky, I agree with him. I think in dealing with this amendment I do not think anybody wants to suggest that all insurance company executives are swindlers or engaging in improper conduct. Certainly many fine insurance companies are in this country, and many men and women engaging in the insurance industry are doing a fine job. They add much to our economic strength in this country.

I think this amendment is only directed at the bad apples, just to see that the bad apples pay an appropriate penalty. But the Senator from Kentucky's point is very well taken and I am glad he made it.

The PRESIDING OFFICER. Is there further debate? If there be no further debate the question is on agreeing to the amendment.

The amendment (No. 418) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 419

(Purpose: To require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 419.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagrpah (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the the designated State law enforcement agency. If the person fails to mail the verification form to the the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Mr. DURENBERGER. Mr. President, this amendment I believe has been cleared on both sides of the aisle. The amendment is based on a freestanding bill that I introduced earlier this year entitled "The Crimes Against Children Registration Act." It is S. 1170.

My amendment will require that people who are convicted of a sexual offense against a child register a current address with State law enforcement officials for 10 years after their release from prison.

We adopted an amendment today that was offered by my distinguished colleague from Kentucky, Senator MCCONNELL, which will require a one-time registration of crimes of child abuse. My amendment targets a particularly dangerous segment of child abuse criminals—those who sexually abuse or exploit children.

Mr. President, more than a year and a half ago, I became especially concerned about the vulnerability of America's children because of a tragic event that took place in my home community of St. Joseph, MN. On October 22, 1989, an 11-year-old boy named Jacob Wetterling was abducted by a masked man at gunpoint while returning home from a convenience store with his brother and a friend. Not a single word has been heard from Jacob or his abductor since that day.

There is not a community in Minnesota that was not shocked and heartbroken by what happened to Jacob. St. Joseph is a small, close-knit, safe community, and Jacob could have been anyone's child. Jacob's parents, Jerry and Patty Wetterling, remain hopeful that Jacob will be found, and we all pray for the day when Jacob will return home safely to his family.

Local, State, and Federal law enforcement officials responded quickly to Jacob's abduction. If local and State police had been aware of the presence of any convicted sex offenders in the community, it would have been of invaluable assistance during those first critical hours of investigation. This amendment would provide law enforcement officials with this tool.

The National Center for Missing and Exploited Children has expressed its support for a national system of registering child sex offenders, not only to protect children from abductions, but to protect every child that may be a victim of sexual abuse or molestation. The amendment that I am offering today grew out of the work of Patty Wetterling and her colleagues on the Minnesota Governor's task force on missing children.

Because of their efforts, a bill establishing this registration requirement just became law in our home State of Minnesota. A similar law just passed in the State of Texas. And 13 other States already have an address registration requirement: Alabama, Arkansas, Arizona, California, Florida, Illinois, Montana, Nevada, Ohio, Oklahoma, Rhode Island, Utah, and Washington.

The reasons for enacting this legislation on the national level are clear: Sexual crimes against children are widespread; the people who commit these offenses repeat their crimes again and again and again; and local law enforcement officials need access to an interstate system of information to prevent and respond to these horrible crimes against our children.

If there is any doubt about the seriousness of the problem, consider the following statistics, provided to me by the National Center for Missing and Exploited Children:

ChildHelp USA estimates that 1 in 3 girls and 1 in 6 boys will be sexually abused or victimized before age 18. More than half—54 percent—of sexually abused children are victimized before age 7, and 84 percent are younger than 12 years old. Two-thirds of reported nonfamily child abductions involved sexual assault. Of the 2.4 million reported cases of child abuse in 1989, 380,000 involved sexual abuse. These statistics seem high, but child molestation is actually one of the most underreported crimes—only 1 to 10 percent of these crimes are ever disclosed.

The widespread tragedy of sexual abuse and molestation of children is compounded by the fact that child sex offenders are serial offenders. A National Institute of Mental Health study found that the typical offender molests an average of 117 children, most of whom do not report the offense. Those who attack young boys molest an average of 281. A study of imprisoned offenders found that 74 percent had one or more prior convictions for sexual offense against a child.

The behavior of child sex offenders is repetitive to the point of compulsion. In fact, one State prison psychologist has observed that sex offenders against children have the same personality characteristics of serial killers.

Sex offenders against children are not only repeat offenders, but they are also dangerous and they are violent. The Justice Department has reported that over 85 percent of nonfamily abductions involved force and over 75 percent involved a weapon. Of the homicides that occur from stranger abductions, almost 40 percent involved rape or another sexual offense, and those are only the cases in which the circumstances were known.

Under this amendment, the type of crimes that would trigger the registration requirement include the kidnapping or false imprisonment of a minor, criminal sexual conduct toward a minor, solicitation of minors to engage in sexual conduct, the use of minors in

a sexual performance, or the solicitation of minors to practice prostitution.

When a person convicted of any of these crimes is released from prison, the individual will be informed of his or her duty to register a current address with law enforcement for the following 10 years. Each time the offender moves, he or she will be required to register the new address within 10 days. This information will then be entered into the State law enforcement and National Crime Information Center computer networks, and will only be allowed to be used for law enforcement purposes.

To ensure that offenders are complying with the registration requirement, a nonforwardable verification form will be sent to the offender's last registered address each year. Failure to return the form within 10 days would constitute a violation of law unless the offender could offer a valid reason for failing to respond to the inquiry.

Mr. President, the Crimes Against Children Registration Act may require some of us to choose between two interests. One of those interests is the interest in protecting children from sexual abuse and exploitation. The other interest is the inconvenience to convicted child sex offenders who would be required to register an address with a State law enforcement agency once a year and each time they move.

Mr. President, for this Senator, there are no competing issues to debate. If a national registration requirement for convicted child sex offenders will assist law enforcement authorities in one criminal apprehension or deter one single kidnaping, I believe it is worth implementing.

I am pleased that we adopted the registration of child abuse crimes amendment offered today by Senator MCCONNELL. I hope that my colleagues will joint me in supporting my amendment to protect America's most vulnerable and precious resource—our Nation's children.

Mr. President, I understand that this amendment has been cleared on both sides of the aisle, so I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, we do not oppose this amendment. We think it has considerable merit. It is true that crimes generally are prosecuted in the State where they occur. But as the able Senator said, these people go from State to State. For that reason, we feel it is warranted that we pass a Federal law on this subject.

These people who take advantage of children and commit offenses against them are repeaters. They repeat, repeat, repeat. In one State, when they feel like they are about to get caught, they move to another State. So in view of that, it appears to me that it is warranted we pass a law at the Federal level on that subject.

The PRESIDING OFFICER. Is there further debate?

Is there objection to the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No 419) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, Senator D'AMATO has an amendment, which, as I understand it, has been cleared on both sides. I will present that amendment for him.

AMENDMENT NO. 420

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. THURMOND], for Mr. D'AMATO, proposes an amendment numbered 420.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES.—Pursuant to section 994 of Title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate section 1324(a) of title 8, United States Code, shall be assigned not less than offense level 25 under section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist:

(1) If the offense involved five or more aliens in a single scheme or otherwise; or

(2) If the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnaping or ransom demands, fraudulent documents, or extortion; or

(3) If the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13 except for an offense as described in 1324(a)(2)(A) of title 8 United States Code.

Mr. D'AMATO. Mr. President, The Immigration and Naturalization Service has informed us that during the last year, over 3,300 alien smugglers were apprehended, an increase of 23 percent over 1989. There is increasing violence associated with alien smuggling as organized crime become more involved. Some aliens are subjected to lives of servitude, trapped in a vicious cycle of debt and despair.

SPECIFICS OF THE AMENDMENT

Current law, 8 U.S.C. 1324(a), provides a maximum of 5 years imprisonment in the broad category of "Bringing in and harboring aliens."

If a defendant pleads guilty to a first offense, often the sentence received is either probation or 6 months in jail—the Sentencing Commission categorizes a first offense as a base 9 offense level, or 4 to 10 months. The maximum term of imprisonment is the same for the leader of an organized smuggling ring as it is for a poor truck driver hiding an alien in his truck.

This amendment directs The U.S. Sentencing Commission to promulgate guidelines, or amend existing guidelines, to raise the sentence to approximately 5 years in jail for a first offense—base 25 offense level, or 57 to 71 months—if any of the following factors exist:

First, the offense involved five or more aliens; or

Second, if the offense involved criminal activity such as violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnaping or ransom demands, fraudulent documents, or extortion; or

Third, if the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

Fourth, if the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

Fifth, if the offense involves dangerous or inhumane treatment of the persons smuggled; or

Sixth, if death or serious bodily harm occurs to persons smuggled—in this specific instance, the amendment adds three more offense levels to get to a minimum of 78 to 97 months for a first offense, which is approximately 7 years.

ILLEGAL ALIEN DEBT AGREEMENT

INS has provided us with a copy of a translated agreement between an illegal Chinese alien and a smuggler. This document shows how the smuggler extorts great sums of money from the illegal immigrant. The agreement states

that within 2 days of the alien's arrival in the United States, a guarantor in the United States shall pay $15,000 to the smuggler's organization.

The balance amount, $7,800, shall be paid by the guarantor in Hong Kong within 7 days. If the guarantor fails to pay within 7 days, a compensation of 2 percent of the total amount shall be paid to the organization each day. INS tells us that when the illegal immigrant does not pay the syndicates that smuggle them in, the alien is often kidnaped and tortured.

EXAMPLES

A Washington Post article on June 17, 1991, entitled "A Dark Road From China to Chinatown," describes the problem of smuggling illegal Chinese immigrants. The following are quotes from this article:

* * * They [illegal Chinese aliens] typically pay from $35,000 to $50,000 to Chinese smugglers, many with connections to Chinese organized crime * * *. They will become essentially indentured servants, working in sweatshops in the garment district, in restaurants, laundries, or other businesses. They will work as long as five years—often seven days a week, day and night, for minimum wage or less—while living in squalor, to pay off the loans that brought them here.

Some are lured to the quicker money to be made by smuggling drugs, becoming enforcers or engaging in prostitution for the Chinese gangs that lent them money * * * "Anyone who scrapes together $50,000—about 100 years' salary for the average Chinese—is compromised on arrival in the U.S.," [Michael T. Lempres, INS Operations Director] said. The newly arrived are living "in a form of slavery," paying rent and buying food from the smugglers, he said. The pressure on these immigrants to turn to crime can be overwhelming.

* * * Passengers who made it to New York likely will stay underground and blend into the 300,000-member Chinese community there, which includes about 30,000 illegal workers, according to New York City estimates * * * INS officials have counted 51 countries that are connected to the smuggling rings, either as part of the transportation web or the manufacture of documents * * *. Of the $35,000 to $50,000 fee smugglers collect from emigrants, only about $10,000 goes for the trip itself * * *. The rest, as much as $40,000, is divided up by the rings * * *.

New York Daily News, "Merchants of Misery: Ring Led Illegals To Risk Ruin and Worse," September 24, 1990:

* * * From the early 1980's on, [Immigration agents] tracked Cheng [Chiu Peing, a Fujinese woman based in New York City's Chinatown] and her husband from China through Latin America and the U.S., struggling to break a ring they charged smuggled thousands of Chinese illegals and made at least $30 million * * *. Her smuggling has produced wealth kept safely outside the U.S.

The assets include a garment factory in Shenzhen, a free-trade zone near Hong Kong, and a video arcade and import-export business in western Hong Kong, the investigators said * * *. INS agents arrested illegals [coming from Toronto] later in Albany aboard a bus to New York City. They also got a warrant for Cheng, who was nabbed in Vancouver en route to Mexico * * *. District Court Judge Richard Arcara rejected Cheng's pleas for leniency and sentenced her to the maximum, six months in jail * * *.

The following article describes the gruesome death that five aliens faced as they tried to make their way to the United States. Valley Morning Star, Texas, January 28, 1991, "Alien Smuggler Gets 18 Months":

A convicted alien-smuggler linked to the deaths of five immigrants was sentenced Monday to 18 months in prison by U.S. District Judge Filemon B. Vela. Renato Avila Botello, 29, of Houston, was a fugitive for most of 1990 after a January 23 indictment for alien smuggling in connection with a botched operation in which five people died. They had been loaded in Harlingen onto a boxcar filled with corn flour fumigated with the poisonous chemical phostoxin.

Judge Vela said Monday, he would have liked to give him a longer sentence. "If it weren't for the guidelines, I would have given him five years for every alien that died," Vela said. Federal sentencing guidelines call for probation to six months, but Vela said exceeding the guidelines was necessary under the circumstances.

CONCLUSION

Mr. President, these smugglers are indeed the merchants of misery. They take desperate people, hungering for a better way of life, and force then into circumstances in many ways worse than their previous lot. This is outrageous and totally despicable. As a nation which strives to provide the huddled masses with an improved life, we should not tolerate downtrodden people being forced into a life of prostitution, drug trafficking, indentured servitude, or slavery. I thank my colleagues for accepting this important legislation.

Mr. THURMOND. Mr. President, as I say, I am informed this amendment has been cleared on both sides and there is no objection. I call for a vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 420) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

(The remarks of Mr. PELL pertaining to the introduction of S. 1415 and S. 1416 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PELL. I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I ask unanimous consent that I be named as the first cosponsor of the legislation that the distinguished Senator from Connecticut [Mr. DODD], introduced this week regarding El Salvador, and which I will more closely identify for the clerk.

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

Mr. LEAHY. Mr. President, I am pleased to join my good friend the distinguished Senator from Connecticut on this year's version of the Dodd-Leahy El Salvador amendment we put on the foreign operations appropriation last fall. I delayed a few days in joining him in introducing this new bill to withhold half of El Salvador's military because I was making a last ditch effort to persuade the administration not to begin releasing the money withheld because of the Dodd-Leahy amendment last November.

Unfortunately, as the newspapers make all too clear, I was unsuccessful in urging the administration to continue the restraint it has shown over the last 6 months. The President intends to begin committing the $42.5 million in this year's Salvador military aid. There is no reason for me to delay any longer in the hope of mutual restraint by both Congress and the executive branch on El Salvador.

My friend from Connecticut and I will now work as hard as we can to persuade a majority of our colleagues in the Senate that the United States Congress must again take a stand in favor of peace and reconciliation in El Salvador. We won convincingly last fall, and there is every reason to continue to put pressure on both sides, the Salvadoran Government and the FMLN rebels, as they negotiate for a cease-fire and a peace agreement.

We are convinced that the Dodd-Leahy military aid withhold enacted last year contributed significantly to the decisions made by both sides in this terrible war that there must be a negotiated settlement and an end to the killing. I am confident our view will prevail again, and once more the Senate will send strong signals to the Government of El Salvador and the FMLN rebels that they must continue the U.N.-sponsored peace negotiations and conclude a cease-fire promptly.

Last year, for the first time in a war that has claimed the lives of over 70,000 people, the Congress sent a strong signal to the Salvadoran military. Senator DODD's and my amendment, which passed overwhelmingly, withheld $42.5 million—one-half of the military aid. We tied the release of that aid to the FMLN's conduct in the peace negotiations and on the battlefield.

And we put other conditions on the government. The law says that all military aid is to be withheld if the

government does not conduct a thorough investigation and prosecution in the Jesuits' case.

What has happened?

Only 2 months after our legislation became law the President reported that the FMLN had violated its conditions. At the same time he ignored the lies and obstruction of justice by the Salvadoran military in the Jesuits' case, which under our law would require that all military aid be withheld.

To his credit, the President held off releasing the aid at that time. Despite intense lobbying by administration officials against our amendment last year, they discovered that it gave them leverage over both sides in the negotiations. That is exactly what we told them it would do.

Senator DODD and I, in a letter signed by 35 Senators, urged the President to continue withholding aid and keep the peace negotiations alive.

I renewed that plea in separate meetings with President Bush and Secretary Baker, and later in several discussions with Assistant Secretary Aronson.

Our legislation has accomplished more in El Salvador in 6 months than anything in the past 6 years. For the first time, we showed that the American people will not support endless war in El Salvador. We showed that if the Government of El Salvador expects our support it must get serious about reining in the military and the death squads.

And, most importantly, we showed that by tying our aid to the peace process we can get results. After years of on-again, off-again negotiations in which neither side was serious and nothing was accomplished, on April 30 the two sides signed an agreement on a wide range of issues.

To use Secretary Aronson's words:

> They have achieved already at the bargaining table an enormous number of concrete agreements that are far-reaching and reshaped Salvadoran society, that reshaped their judicial system, that reshaped their electoral system, that reshaped human rights and the rule of law, and that fundamentally reduce and alter the role and structure and size of the armed forces.

What that agreement shows is that both sides take the negotiations seriously and have concluded that the war is unwinnable and that a political settlement is the only option. Since then they have been meeting to try to agree on the terms of a cease-fire.

Let there be no mistake, the negotiations have been very difficult. As Secretary Aronson said, "in any negotiation, in some ways the closer you get, the harder it comes." He said, "the two sides are very close on most issues, but there remain some tough issues * * * the progress is forward, but sometimes there are steps backwards on both sides."

We all want to see the war end, and the sooner the better. But whether it takes another month or a year to get a cease-fire, and I abhor the thought of it taking a year, one thing is clear. For the first time the negotiations are working.

It would be folly to do anything that would give the hardliners in the military or the FMLN an excuse to drag the talks out indefinitely or sabotage them altogether.

That was the decision of the House of Representatives when it refrained from including conditions on aid to El Salvador in the 1992 foreign aid bill. Recognizing that the negotiations have been progressing and are in a critical stage, the House honored the administration's request not to do anything that might send the wrong signal and disrupt the peace process.

But those Members also urged the administration, for its part, to refrain from releasing any of the withheld 1991 aid.

So did the Foreign Relations Committee, where a majority decided not to take any action on El Salvador in order to give the negotiations every possible chance.

I give a great deal of credit to Secretary Aronson for his efforts to use the withheld aid during these past 6 months as leverage to push the negotiations forward. He is working hard for a peace agreement, and I do not doubt his commitment to that goal. He has had a difficult task but has always performed with the utmost professionalism and deserve praise.

Yet despite those efforts and the Congress' willingness to delay action on an issue that has aroused such passions, it now appears that the hardliners have won out. The decision has been made to begin releasing the withheld aid within the next week to 10 days.

I also recognize the administration's attempts to show restraint as it releases the military aid. The administration indicates it will send only nonlethal equipment—uniforms, vehicles, radios and the like—at least at first. But there is about $80 million in the pipeline of undisbursed prior year military aid, all of which is available for guns, bullets, rockets and mortars. The reality is that we will continue to bankroll the government's military operations.

And a critical element of the Dodd-Leahy law will be continued to be ignored.

I challenge anyone in the administration to say there has been a thorough investigation and prosecution in the Jesuits case, as our law requires. Even the administration admits that the military has concealed evidence, destroyed evidence, lied and obstructed justice, but still they want to reward the conspirators. Under our law they should withhold all the aid. Instead they want to give it away.

The truth is that neither side has fully complied with our law. But the answer is not to jettison the law.

Mr. President, let us not forget the effects of our policy of quadrupling the size of the Salvadoran military and turning a blind eye to corruption and atrocity after atrocity.

Over 70,000 dead. Another 7,500 disappeared and presumed dead.

A million and a half refugees, most now living in squalor in the United States. Another half a million Salvadorans displaced within their own country and living hand to mouth.

We can learn from this lesson. But not if we continue to ignore the tragedy of how our aid has been misused. Not if the administration refuses to uphold the law.

The Salvadoran military needs to know that the Congress has not forgotten. We have not forgotten the Jesuits and the other atrocities. We support the peace process. We will not go back to the old days of writing a blank check to the Salvadoran military.

Mr. President, S. 1352, the new Dodd-Leahy bill would again withhold one-half the military aid and tie the release of that aid to the peace process and human rights, including progress in the Jesuits case. But this time if the President decides to release any of the aid he must first notify Congress through the regular 15-day notification process.

This will give the Congress time to review the President's decision and ensure that the law is applied evenhandedly. We will hold both the government and the FMLN accountable if they violate conditions in the law.

Mr. President, the Dodd-Leahy legislation is just as necessary today as it was 8 months ago. In El Salvador the fighting continues. The suffering continues. A year and a half later we are still waiting for justice in the Jesuits' case.

But there is far more optimism today than 8 months ago that a cease-fire is within reach. This legislation will send a strong signal to both sides that they will pay a heavy price if they walk away at the 11th hour.

I urge all Senators to join us in cosponsoring S. 1352. Let us once again stand for peace in El Salvador.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that the privileges of the floor be granted to Craig Schiffries for today.

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

AMENDMENT NO. 421

(Purpose: To amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse)

Mr. LEAHY. Mr. President, I am pleased to join with Senators BROWN and KOHL in offering the Computer Abuse Amemdments Act of 1991, S. 1322, as an amendment to the crime bill, S. 1241. I send that amendment on

behalf of myself, Mr. BROWN, and Mr. KOHL to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair understands that this is one of the amendments that was considered in the unanimous-consent request to be offered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. BROWN, and Mr. KOHL, proposes an amendment numbered 421.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be diapensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, or the use of a computer, computer services, system or network, information, data or program; and

(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(c)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

Mr. LEAHY. Mr. President, it is important to update our laws to stay abreast of rapid changes in computer technology and computer abuse techniques. In the 101st Congress, the Senate responded to the threat posed by new forms of computer abuse—destructive viruses, worms, and Trojan horses—by unanimously passing S. 2476. That bill was not considered by the House of Representatives in the last Congress, so I joined with Senators BROWN and KOHL in reintroducing the bill, S. 1322.

The Computer Abuse Amendments Act of 1991 is the product of over 2 years of work by the Subcommittee on Technology and the Law. In the 101st Congress, I chaired two hearings on computer abuse. S. 1322 has been drafted and revised on the basis of careful review of issues raised in the subcommittee's hearings, and with the benefit of consultation with computer experts. The bill has been broadly supported by the computer industry and by computer users. At the subcommittee's hearing on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that this bill "provides a useful improvement over and clarification of, the scope of existing law."

Mr. President, the free flow of information is vital to our competitiveness as a nation. Innovations in computer technology create new opportunities for improving the flow of information and advancing America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, technology, and national security.

The National Research Council [NRC] recently published a major study, "Computers at Risk: Safe Computing in the Information Age." The study finds that we risk computer breaches that could cause economic disaster and even threaten human life. According to the NRC study, "Tomorrow's terrorist may be able to do more damage with a keyboard than with a bomb." The NRC study underscores the need for immediate action to protect our computer systems.

This legislation deals with new technologies and newly discovered forms of computer abuse. An alarming number of new techniques—computer viruses, worms, and Trojan horses—can be used to enter computers secretly. Their simple names belie their insidious nature. Thousands of virus attacks have been reported and hundreds of different viruses have been identified.

Computer breaches can cause economic disaster and even threaten human life. Right now we are still trying to find out what caused the computer problem with the telephone system that blanked out service to millions of Americans yesterday. I do not mean to suggest in any way that this problem was the result of a criminal act or was a virus, Trojan horse, or worm. The preliminary news accounts are that it was just a malfunction in the programming. But I mention it, Mr. President, because if somebody wished to introduce the kind of virus that we are talking about here, which would be a crime under my amendment, they could do the same kind of damage we saw yesterday. In fact, they can do far more, and we could see many more States blanked out like this.

Hidden programs can destroy or alter data. For example, a Michigan hospital reported that its patient information had been scrambled or altered by a virus that came with a vendor's image

display system. Hidden programs can also hopelessly clog computer networks, as we saw with the Internet worm of November 1988.

Other computer incidents, using the same kinds of programs, have been inadvertent. For example, in December 1989, the Vermont State computer network froze. It was impossible to sign on to the system. Rather than a virus or sabotage, it turned out to be a security device in the form of a time bomb, built into the system's hardware to deter outside access. The manufacturer of the software had failed to inform the State that a special code would be triggered after a given date, locking out access through normal channels. It was a nuisance to be sure, but certainly not criminal.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. He testified that many researchers throughout the United States were prevented from using their computers for 2 days as a result of a "worm" that was introduced onto the Internet computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction, and punishment. Whether the offense is murder, drunk driving, or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, vandalism, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting this legislation we have been mindful of the need to balance clear punishment for destructive conduct with the need to encourage legitimate experimentation and the free flow of information. As several witnesses testified in the subcommittee's hearings, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may tomorrow, develop the telecommunications or computer technology to lead the United States into the 21st century. He or she represents our future and our best hope to remain a technologically competitive Nation.

Mr. President, this bill clarifies the intent standards, the actions prohibitied and the jurisidiction of the current Computer Fraud and Abuse Act [CFAA], 18 U.S.C. section 1030. Under the current statute, prosecution of computer abuse crimes must be predicated upon the violator's gaining "unauthorized access" to the affected "Federal interest computers." However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained "access" in the commonly understood sense of that term. The new subsection of the CFAA created by this bill places the focus on harmful intent and resultant harm, rather than on the technical concept of computer "access."

The bill makes it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code, including destructive computer viruses, without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits "intentionally access(ing) a Federal interest computer without authorization," if that causes damage.

This legislation recognizes that some computer incidents are not malicious—or even intentional—and they are treated differently. The bill creates a parallel misdemeanor for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code. This provision will give prosecutors and juries greater flexibility to get convictions for destructive conduct.

The bill creates a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The bill expands the jurisdiction of the CFAA. It would cover all computers involved in interstate commerce, not just "Federal interest computers," as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The bill addresses this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce clause of the U.S. Constitution, (Art. I, Sec. 8).

Mr. President, this amendment has been cleared by both sides. I want to thank Senators BROWN and KOHL for joining me in offering this amendment. I urge my colleagues to join us in supporting this measure. In the 101st Congress, an identical bill was unanimously reported by the Judiciary Committee and unanimously passed by the Senate. Enactment of this sound and balanced legislation would help ensure that our laws keep pace with new forms of computer abuse.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 421) was agreed to.

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

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

The motion to table to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I wish to acknowledge the work of Ann Hawkins, my chief counsel, Katie Miller, a former member of our staff, Craig Schiffries, a congressional science fellow who has been working with us, John Bliss, Senator BROWN's chief counsel, and Jon Leibowitz, Senator KOHL's chief counsel, as well as others of the staff of the Judiciary Subcommittee on Technology and the Law, on both sides of the aisle, who have worked so hard in this. I wish to acknowledge them because this is an extremely complicated piece of legislation, and without the hours and evenings and weekends of work they put in, we would not have this excellent initiative.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. 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 Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1414 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I yield back my time.

The PRESIDING OFFICER. Did I understand that the Senator has suggested the absence of a quorum?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FREDERICK MOSTELLER

Mr. MOYNIHAN. Mr. President, earlier this month, Harvard University awarded an honorary degree to Frederick Mosteller, that indomitably cheerful scholar who has so illuminated the often mournful issues of public policy.

I ask unanimous consent that his Harvard citation be printed in the RECORD at this point, and that it be ordered that a flag be flown over the U.S. Capitol in honor of a distinguished son of West Virginia and luminous citizen of the world.

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

Frederick Mosteller: Where others see chaos, he sees patterns; in a confusion of fragments, he finds connections, ordering disciplines, illuminating disciples.

Pop Quiz: What do the following have in common? (1) Assessing the costs, risks, and benefits of surgery. (2) Assigning the authorship of certain disputed Federalist papers to James Madison. (3) Determining whether the better team really does win the World Series.

The unifying factor in this improbable trio is Frederick Mosteller, Harvard's Roger I. Lee Professor of Mathematical Statistics Emeritus. And that sampler merely hints at what Harvard Public Health School Dean Harvey Fineberg has called the "astonishing array" of methodologies that Mosteller has applied to "an equally wide variety of problems in the world."

Universally regarded as the greatest living biostatistician, Mosteller has used statistics to illuminate issues in business, economics, public policy, educational assessment, and weather prediction. Through NBC-TV's Continental Classroom series of the 1960s, he instructed thousands in the basics of his discipline.

He has produced more than 200 articles for professional journals, and has helped write or edit more than 60 reports, pamphlets, and books (including several textbooks and teachers' manuals). Speakers of Chinese, French, German, Italian, Japanese, Russian, Spanish, and Turkish know him in translation. Since he began teaching at Harvard in 1946, his activities have enriched five different faculties: Arts and Sciences, Law, Medicine, Government, and Public Health.

Mosteller's range and depth have earned "the admiration of statisticians and mathematicians (plus those with no numerical facility at all) throughout the world," Fineberg observes, and the statistician's capacity for work is the stuff of legend: "One of his books was written exclusively during airplane flights."

Mosteller has been a mentor to generations of faculty and students. "He is as close to the complete teacher-scholar as anyone I know," says Fineberg.

Among Mosteller's many honors are the Samuel S. Wilks Award of the American Statistical Association (ASA; 1986), the Medallion of the Centers for Disease Control (1988), and the 1989 Statistician of the Year Award of the ASA Boston Chapter.

Mosteller was born in Clarksburg, W. Va., on Dec. 24, 1916. After earning his Bachelor (1938) and Master (1939) of Science degrees from the Carnegie Institute of Technology, he went to Princeton for his M.A. (1941) and Ph.D. (1946). He was named to the Lee Professorship in 1978. He retired in 1987 but remains as active as ever.

AN ALL-AMERICAN CITY

Mr. MOYNIHAN. Mr. President, Albany, NY, will always hold for me many fond memories. It was there I met my wife, and spent happy years working for Gov. Averell Harriman in that august State capitol building. Albany was my home. I knew then it was a special place, not just for me, but for many. With what little surprise then, but still great pride, did I learn that recently Albany was named an "All-American City" by the National Civic League.

In 1894 President Theodore Roosevelt and other concerned civic reformers established the National Civic League to promote citizen involvement in community problem solving. For some 42 years now this worthy organization has been presenting the "All-America City Award" to those of our cities which have displayed excellence in this capacity. Earlier this month Albany was among the winners of this prestigious prize. No small achievement, given that it was among but 10 cities selected nationwide. I would like simply to commend the citizens of New York's capitol and its mayor, Thomas Whalen, on the deep pride and hard work they have put into improving their fair city. The civic and governmental initiatives they have undertaken have formed a unique and highly successful partnership. In addition, Albany has attracted many arts groups, among the most notable the Berkshire Ballet. For these and other strengths, it was chosen by a distinguished panel of judges as a model city. Mr. President, with news of this award, there is great cause for optimism about our cities, both in New York and in the Nation. I know that my fellow Senators join me in saluting Albany, NY, "Cradle of the Union."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,294th day that Terry Anderson has been held captive in Lebanon.

THE LAST DOMINO

Mr. MOYNIHAN. Mr. President, the last of the totalitarian states has begun to tumble. In a compelling op-ed article which appeared in the New York Times on Thursday of last week, Sali Berisha, the chairman of the Democratic Party of Albania, describes Albania as the last domino. I commend the article to my colleagues. The cold war is over, but totalitarian leaders cling to personal power around the world, in Albania, Cuba, North Korea, and, of course, in totalitarian China. Democrats like Mr. Berisha deserve our strongest support as they struggle to sweep away the legacy of more than 40 years of isolation and repression. I ask unanimous consent that Mr. Berisha's excellent article be printed in the RECORD.

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

[From the New York Times, June 20, 1991]

THE LAST DOMINO

(By Sali Berisha)

TIRANA, ALBANIA.—Tomorrow, Secretary of State James Baker will make the first visit by an American Secretary of State to Albania. His arrival will mark one more step in my country's march toward freedom. To continue that march, to consolidate democracy and join the world economy, we need help from the west.

For Albanians, the U.S. has always been synonymous with freedom and democracy. President Woodrow Wilson kept our neighbors from partitioning our country after World War I. Mr. Baker's visit makes us hopeful.

Forty-seven years of Communist rule have made us the poorest country in Europe. We are desperate for humanitarian aid—food and medicine—as well as technological and economic assistance. Albania needs American business to invest in developing highways, textile industries and oil exploration.

Albania overthrew the most perverse and militant Communist regime in Eastern Europe. In December, students took to the streets and forced the Albanian Communist Party to relinquish its 47-year monopoly on power by holding multi-party elections. Intellectuals and professionals immediately formed the Democratic Party and other opposition groups.

Though foreigners, rarely allowed in Albania under Communist rule, weren't able to observe this historic event, they were present in March to view the elections.

The Democratic Party emerged as the main alternative to the Communists. We won 75 seats in the People's Assembly, one-third of the total. Most of our support came from the cities, where residents, after four months of activism, were no longer afraid of the Government.

The Communists won two-thirds of the vote, mostly from the countryside. Foreign observers misinterpreted the election results, reading them as a sign of Communist strength. But the rural vote was based largely on fears that are no longer realistic: the Democrats' victory showed the peasants that it was possible to act against the Communist Party and survive.

This proved true two months later when 350,000 workers went on strike, demanding higher wages and greater freedom. The food and other support the workers received from the villagers enabled them to hold out and force the Communists to relinquish power and form a new coalition.

On June 12, a transition Government with representatives from all political parties was installed. It is expected to preside until new elections are held next year. In recognition of these steps, Albania was admitted to the Conference on Security and Cooperation in Europe at the foreign ministers' meeting in Berlin this week.

For students, intellectuals, workers and peasants, socialism is dead in our country as elsewhere, and we are disposing of its remains. Building a democracy won't be easy.

Aside from our grave economic problems, we are concerned about the abuse of the human rights of the Albanians in Kosovo, Yugoslavia. A great threat to peace in the Balkans is posed by Slobodan Milosevic, the president of the Yugoslav republic of Serbia.

Still, with the advice and friendship of the United States, I am certain that Albania will soon make its own contributions to the world.

RETIREMENT OF JUSTICE THURGOOD MARSHALL

Mr. SANFORD. Mr. President, today Justice Thurgood Marshall announced his retirement from the Supreme Court.

While I personally can wish him a long and happy retirement, I do so with a great measure of sadness. My sadness is because I believe the Nation is losing an able and dedicated champion of liberty and individual rights and protections under the U.S. Constitution.

Justice Marshall has been a stalwart and dedicated servant protecting the rights and interests of the American people.

He has served the Nation on the Supreme Court since his appointment by President Johnson in 1967.

His career has distinguished itself through service to our society. After graduation from Howard University Law School, Justice Marshall began a long and historic involvement with the National Association for the Advancement of Colored People. Over several decades he fought against segregation in voting, housing, public accommodations, and education.

As many know, the culmination of his career as a civil rights attorney came in 1954 as chief counsel in a series of cases grouped under the title Brown versus Board of Education. Mr. Marshall argued that case before the Court he would eventually so ably serve and succeeded in convincing the Court to declare segregation in public schools unconstitutional.

Subsequently, he was appointed to the Second Circuit Court of Appeals by President Kennedy. He then served as the Nation's first black Solicitor General, winning approval in that capacity for the 1965 Voting Rights Act.

The appointment of Justice Marshall's successor to the Court will be without a doubt one of the most significant appointments of this decade. I hope the President chooses wisely.

I hope the President will recognize the unique presence he is now called upon to replace and that he will be motivated to try genuinely to recapture many of the qualities Justice Marshall brought to the Court. His ideals, his principles, and his leadership should not pass from the Court with his retirement. This appointment represents a special challenge to the President to send us an appointee of Thurgood Marshall's stature and character, and I hope he will accept it.

In conclusion, however, I must again say that I wish Justice Marshall the very best during his retirement and that I shall truly miss his presence on the Court.

IN PRAISE OF JUSTICE THURGOOD MARSHALL

Mr. WELLSTONE. Mr. President, I am deeply saddened to learn of the resignation of Justice Thurgood Marshall from the Supreme Court. He has been a champion of those members of our society who were least able to defend themselves. His tenure on the Court has been marked by compassion, sensitivity, and a deep and abiding belief in the principle of "equal justice under the law." He is without peer and will be sorely missed.

Justice Marshall's resignation signals the end of an era on the high court. With his departure, the Supreme Court will now be more firmly in the control of Reagan-Bush nominees, who will hold the fate of the country in their hands for years to come.

I intend to examine closely the qualifications and record of any nominee the President puts forth. And with my colleagues, I will hold him or her to the highest possible standard. I also urge the President to seriously consider nominating a person of color to the Nation's Highest Court. The Court, as our most important judicial institution, should represent all the country's people.

Finally, I want to extend my personal best wishes and thanks to Justice Marshall. For 50 years—first as the legal counsel to the NAACP and then on the Court—he has fought to protect the civil and individual rights of all Americans. He has helped to breathe life into the Constitution. And he has been a beacon for all those who look to the Court for justice and equality.

REFUGEE ISSUES IN THE 1990'S

Mr. PELL. Mr. President, the new U.N. High Commissioner for Refugees, Mrs. Sadako Ogota of Japan, delivered an address at Georgetown University June 25 entitled "Refugees in the 1990's: Changing Reality, Changing Response." It is an important statement.

We had the honor of welcoming the High Commissioner to the Foreign Relations Committee on the afternoon before her Georgetown speech. Her command of the subject matter of her responsibilities is impressive. This despite the fact that she has been in her high office for less than 4 months.

Madame Ogato is the first Japanese and the first woman to hold the position of High Commissioner. In a sense her entire life and career can be seen as preparation for this most important position. She holds a Ph.D. from the University of California at Berkeley and a masters degree from Georgetown—so her address there was a homecoming.

Over the years she has represented her Government on the U.N. Human Rights Commission and at the United Nations in New York. She has served as president of the UNICEF executive board, and is recognized as a leading scholar and spokesperson on humanitarian issues.

The High Commissioner was elected by the U.N. General Assembly in December to succeed Thorvald Stoltenberg of Norway, and she took office in February. She was immediately plunged into the urgent refugee crises in Iraq and its borders with Turkey and Iran, and in the Horn of Africa. The number of refugees worldwide continues to mount from 14 million 2 years ago to nearly 17 million today.

I want to express my personal support for the High Commissioner in the awesome responsibilities that she has taken on. Already it is clear she is carrying out these responsibilities with an effective blend of principle and pragmatism. She stands with the refugees, and she knows how to get the job done.

I ask unanimous consent that the text of the High Commissioner's address at Georgetown University June 25 be printed in the RECORD.

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

STATEMENT OF THE HIGH COMMISSIONER—REFUGEES IN THE 1990'S: CHANGING REALITY, CHANGING RESPONSE—GEORGETOWN UNIVERSITY, JUNE 25, 1991

It is a great honour to address Georgetown University on my first visit to the United States as United Nations High Commissioner for Refugees. I am very happy to be here as it was at this very University that I began my graduate studies in political science forty years ago. It is therefore with great pleasure that I take this opportunity to share with you my thoughts after having been in office for some four months.

Within weeks of assuming office I was faced with one of the most difficult refugee situations in UNHCR's history. I speak of the exodus from Iraq. My induction, however, was not limited to the Middle East. I was also confronted with the tragedy of millions of refugees and displaced persons in the Horn of Africa as well as around Liberia; with the persisting refugee situations in southern Africa, Afghanistan and Southeast Asia; and with the increasingly difficult situation of asylum-seekers arriving in industrialised countries. Of course, there have been some positive developments too, particularly in Central America, Western Sahara and Angola. The extraordinary dynamism of the events confirm, more clearly than ever before, the radical changes in the nature of the refugee situation. In my talk this evening I would like to share with you my analysis of the situation and then propose some ideas on how to mould a new response.

How has the refugee situation changed?

Firstly, the refugee issue has become part of a much larger movement of people across frontiers and within them. The mass exodus of migrant workers, evacuees, refugees and internally displaced which the Gulf War produced represents in a microcosm the kind of movements with which we are increasingly confronted as we come to the end of the twentieth century. The process of political and economic adjustment which we are experiencing today, the widening economic gap between the North and the South, the pressures of poverty and the aspirations of a better life, coupled with technological advances

in transport and information, have led to massive movement of people. If we put refugees and the internally displaced together, the estimate is over 30 million persons. There is hardly a corner in Africa which has been spared displacement. In Asia, Central America, Middle East, Europe or North America, there are refugees and displaced people.

Second is the growing complexity of the root causes of refugee flows. The Iraqi refugees clearly fell within the classical definition of refugees as persons fleeing persecution. However, in many parts of the world refugees are victims of civil war and political conflict rather than of persecution. Africa, burdened with its colonial past, provides many grim examples of ethnic tension, exacerbated by poverty, population explosion and environmental degradation, leading to repression and violence. Communal strife and civil war intensify famine and food shortages, forcing people to move in search of safety and survival, for example in Mozambique, Liberia and the Horn of Africa.

Thirdly, displacement is not only an issue across national frontiers but also within them. In Iraq, Ethiopia or Mozambique, to name but a few situations, the causes which led to external displacement have also created a large displacement of persons inside their own country. For the human being directly affected, legal definitions—or artificial borders—are meaningless. For the Ethiopian, the suffering is the same whether he crosses the border into Sudan as a refugee or remains displaced inside Eritrea in a refugee-like situation as a result of the conflict. In the present situation, however, no single organization has the mandate, nor capacity, to take care of the internally displaced. UNHCR has a direct interest in the resolution of this vacuum. Not only as a humanitarian agency responsible for human beings, but also since internal displacement may trigger external flight. Aid and protection to the internally displaced can therefore be considered both preventive and curative.

Fourthly, not only do refugees originate from developing countries, the vast majority also find asylum in developing countries. Because of the limited capacity of receiving countries to absorb refugees and with the change in the East/West relations, the political imperatives for local integration or resettlement abroad are dwindling. Increasing emphasis is being placed on the role and responsibility of the country of origin. Voluntary repatriation has become the most viable option, but is often predicated on an acceptable political settlement. Recent progress on a number of regional conflicts have promoted the possibility of returns to Western Sahara, Angola and Rwanda. At the same time, I am concerned that lack of adequate security conditions impede returns in many other parts of the world, including Cambodia, the Horn of Africa, southern Africa and Liberia, while five million Afghan refugees in Pakistan and Iran have spent a decade in exile. In the case of northern Iraq, one million refugees returned from Iran or the Turkish border within weeks of the exodus.

However, almost half of that number remain displaced inside Iraq because they are afraid to return to their home villages or are prevented from doing so, or wish to return to villages which were evacuated and destroyed in the course of the Iran/Iraq war. The evolving security situation will determine any further returns. I cannot but be concerned about future security arrangements in northern Iraq.

Finally, an aggravating feature of the changing reality has been the growing movement of refugees from their regions of origin to Europe and North America, as part—sometimes even a minority—of a larger movement of migrants escaping poverty. I would like to emphasise that refugees and migrants are distinct categories, requiring different responses. In the case of migrants there is an element of choice and planning in their movement. A refugee on the other hand is forced to flee from political conflict to save his life and freedom, and therein lies his need for protection, even if he does not fear persecution in terms of the 1951 Convention on Refugees. I believe the "temporary protected status" devised by the United States is a useful mechanism to meet the needs of this broad group of refugees. The mixed movement of refugees and migrants has created an acute problem in Western European countries and also in Southeast Asia with the Vietnamese, of how to deal with those who do not qualify for refugee status and are not in need of international protection. Afraid of large movements not only from the South but also from the East, particularly the Soviet Union, western governments have sought to reinforce immigration and border controls, putting pressure on the fragile edifice of asylum and challenging their own liberal human rights traditions. It is ironic to see this happen at a time when human rights and refugee protection institutions are being built in the very countries of Eastern and Central Europe which not so long ago were producers of refugees.

It is clear that the magnitude, scope and intensity of the refugee situation far exceeds the limits of existing institutions and conventions. States and international organisations are at a crossroads on forging a new and global humanitarian system. As discussions proliferate on the restructuring of the humanitarian arm of the United Nations, I see the need for response at two levels. The first is operationally: to develop the humanitarian capacity of the United Nations to meet the emergency needs of refugees and the displaced through a concerted international effort. The second is politically: to utilise the prevailing positive spirit of multilaterism to develop a new approach which can meet the protection and assistance needs of refugees and promote durable solutions in a comprehensive manner. Above all, I see an important catalytic role for the United Nations to keep alive the humanitarian commitment and traditions of the Western world.

In a world grappling with natural and man-made disasters, we are faced with refugee emergencies of unprecedented scale and complexity. Often the United Nations has been criticised for its slow response and lack of coordination—and rightly so. When I visited Iran and Turkey a week after the refugee exodus began in early April, I could see that our preparations designed to meet the needs of 100,000 persons fell far short of the enormous needs of the people which in 5 short days reached 700,000. Let me emphasise this is no reflection on the dedication and competence of UN staff, but rather on the lack of an adequate emergency response system within the UN. I am convinced that with all the best will in the world there is *no* way that the United Nations High Commissioner—or any other UN agency for that matter—can handle large emergencies rapidly or effectively without some fundamental changes in the system. At the moment individual UN agencies engaged in emergency operations, whether UNICEF, the World Food Programme or UNHCR, are neither financed nor staffed in a way in which we can meet large scale crisis situations. For every emergency we must issue a fresh appeal and pledges come too slowly. If you consider the long lead time it takes to obtain, for example, vehicles and to place them where they are needed, then how can food and other relief goods reach the beneficiaries in time, not to mention the staff required to administer and monitor the delivery of life-sustaining assistance.

If greater efficiency and effectiveness is to be expected of the United Nations, then the contingency planning and delivery capacity of the UN agencies must be strengthened. Right now various models are being proposed. Whatever the eventual outcome of the discussions, I would strongly urge against an additional layer of bureaucracy, but would stress the importance of reinforcing emergency preparedness by the United Nations. These efforts should involve three aspects: firstly, financial resources. We cannot respond to emergencies on credit or on a shoestring budget living hand to mouth. A UN humanitarian emergency fund has been often debated. Donors must place at the disposal of the United Nations a standby financial reserve to ensure funding within hours of a recognised emergency. Secondly, stockpiles of basic relief items should be established in locations easily accessible to air transport and a central databank should be set up on the range of goods and services which the UN system can either offer or mobilise from other sources. Thirdly, the UN must organise a standby pool of international emergency experts to respond immediately to any emergency. Such a pool could be linked to civilian disaster relief corps of member governments.

In short, what we need is a flexible, light and pragmatic emergency preparedness and response coordination mechanism, which gives the UN the money, goods and people to respond rapidly and effectively to emergencies. Hand in hand with preparedness goes the need for access and a minimum of level of security to allow UN agencies to operate in emergencies. When were forced to withdraw from Somalia—although I should add that we were the last of the UN agencies to leave Mogadishu—it doubly penalised the very persons we were meant to assist. However, ideas like "zones of peace" or "corridors of tranquility" have been used, for example, in Mozambique, where parties to the conflict agreed to allow safe passage of humanitarian assistance. Operation Lifeline in southern Sudan is another example. We are now using it, with the help of UNICEF and WFP, to get relief across to Sudanese refugees who fled from Ethiopia to Sudan in recent weeks. As security situations worsen in many parts of Africa, we must build on principles of humanitarian law and past experience of UN agencies, ICRC and NGOs to develop a legal framework and practical guidelines for "humanitarian access", so that international protection and assistance can continue to be provided in areas lacking security or under conflict.

So far I have spoken of a new operational response. Now let me turn to the political aspect of promoting a preventive and solution-oriented approach. As the analysis of the underlying causes clearly shows, the refugee problem is multi-facetted and cannot be resolved in isolation from the major political and economic challenges facing the international community. Therefore, the refugee issue must not be seen only as a matter for humanitarian agencies of the UN but also as a political problem which must be placed in the mainstream of the international agenda

as a potential threat to international peace and security. The Security Council Resolution 688 on Iraq created a historical precedent by finally acknowledging the link between human rights, refugees and international peace.

This Resolution marks a watershed in the approach to the refugee problem by focusing on the responsibility of the country of origin to prevent refugee flows. Ultimately the responsibility for the safety and welfare of refugees—as of other individuals—lies with States. As the linkage between refugees and human rights is increasingly recognised, the notion of state responsibility must be given greater importance in the sense of States exercising the political will to look into root causes, and undertaking action to resolve the situation. The country of origin must accept responsibility for its own citizens, both in terms of preventing situations which can give rise to refugee flows and creating conditions which allow their safe and voluntary return. The principles of international solidarity and cooperation also demand that other States should help the country of origin to fulfil this responsibility.

However, the complexity of the refugee situation as well as the enormity of the needs is increasingly placing the burden on international organisations to replace what is rightly the responsibility of statehood. Northern Iraq is a case in point. The problems of protecting nationals in their own country and the limits of UHNCR's mandate once refugees have returned home in northern Iraq have shown clearly that a humanitarian organisation like UNHCR can support but *not* substitute governmental responsibility for a population at risk.

Northern Iraq demonstrated also the irrelevance of borders in responding to the humanitarian needs of the displaced. Today, the protection and assistance needs of the internally displaced are no less compelling than that of those who cross national frontiers. To what extent should national sovereignty shield governments who disregard or are unable to fulfil their responsibilities towards their own citizens? How can international concern be balanced with the need to encourage governments to accept greater responsibility for the plight of the displaced?

These questions are crucial because the response to internal displacement may be a means of preventing refugee flows. The problem goes beyond the capacity of any one agency. What is needed is a coordinated and concerted response from the UN system, ICRC and NGOs. We should also watch carefully initiatives such as the recent agreement between the Salvadorean Government and the FMLN rebels to allow UN observers to monitor the human rights situation in El Salvador. It may yield important lessons for the protection of the internally displaced in other parts of the world.

There is growing recognition of the need for a broad response, which takes into account the totality of the refugee problem from its root causes to its solution, and which addresses the continuum of refugee flows from exodus and relief to return and reintegration. I am convinced that it is only through such a comprehensive approach which includes *all* parties and *all* aspects of the problem that an effective strategy can be developed which recognises the close relationship between human rights, economic development, peace-building and population displacement.

This was the approach adopted by the International Conference on Central American Refugees, called CIREFCA. It grew out of a political commitment to improve regional stability. Solutions for refugees and the internally displaced were therefore incorporated into the more durable process of peace and development in the region. The positive environment in which CIREFCA was born and which it has fostered in turn has led generally to the strengthening of protection for refugees in the region. On the other hand, the durability of the solutions depends on the extent to which refugee aid can be married to development assistance, and more importantly, to the overall resolution of the complex economic and social problems facing the Central American countries.

In contrast, the Comprehensive Plan of Action or CPA in South East Asia was fashioned by the need to tackle a mixed movement of migrants and refugees within a very complex political context. The CPA is still in the process of evolving but I am sure that its ultimate success will be determined by the willingness of the international community to address the underlying root causes of the migratory movement from Vietnam.

CIREFCA and CPA can provide lessons for refugee situations elsewhere. Sweden has just published a proposal for what it calls a "Comprehensive Refugee and Immigration Policy". The basic theme is to preserve international protection for refugees and at the same time encourage greater development assistance with support for democratisation and respect for human rights in refugee-producing areas so that those who have left can be encouraged to return home and others will not need to leave.

This is obviously the ideal solution but it is also a long-term one and requires strong political commitment and, equally importantly, adequate resources. I do not think UNHCR should assume the responsibility of running development programmes but we must play a catalytic role in encouraging others to join hands. All this, however, requires money. Every emergency draws funds away from other activities. In order to feed and house refugees, we have had to cut down on education and self-reliance programmes, yet these are the very activities which prepare the refugees to cease to be refugees and become part of the community building process when they return home.

In conclusion, it is clear that the United Nations must play a much stronger role, both operationally and politically, and must be given the resources and support by governments to do so. The refugee issue lies at the heart of the quest for a stable world order. Unless existing refugee situations are addressed properly and simultaneously by governments as well as humanitarian organizations, they have the potential to blight the prospects for peace and progress which the new political climate offers. As we are confronted with emergencies in the Persian Gulf, Africa and elsewhere, it is clear that we have reached a critical stage. The challenge has never been greater, the stakes have never been higher. I believe now is the time for the international community to respond urgently and flexibly to strengthen the capacity of the UN, politically and in humanitarian terms, to cope with refugee situations. I look forward to playing my part in formulating a comprehensive strategy for a new world order on a firm humanitarian base.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, the distinguished Republican leader, the managers, and several interested Senators have been participating throughout the day in a series of meetings in an effort to determine how best to proceed on the pending measure, and specifically with reference to the gun control provisions of the bill.

I have discussed in just the last few minutes with the distinguished Republican leader a procedure under which the following would occur, with consent: First, that Senator BIDEN be recognized to offer an amendment to strike certain provisions of the bill. Those provisions are the four gun control provisions of the bill, the semiautomatic ban, and the waiting period provision. We believe there is no objection to that on either side. That would be done in just a few moments, without objection.

Then Senator STEVENS would be recognized to offer a handgun control amendment on which there would be 1 hour for debate equally divided with no second-degree amendments in order, and a vote up or down on that amendment after 1 hour of debate.

Because there is uncertainty as to whether we would then be permitted to proceed to completion of the bill without the need for a cloture motion, I indicated to the distinguished Republican leader that it would be my intention, absent some agreement, to file a cloture motion prior to midnight tonight to permit it to ripen on Saturday. It is my hope that if we were required to do that, which I think we will not be required to do, but it may be necessary, we could have a cloture vote tomorrow. That would, of course, take consent.

In lieu of that, the distinguished Republican leader suggested that we simply seek to gain consent that would permit—should events require tomorrow, and it may not be required, and in fact I hope will not be required—that I could file a cloture motion on tomorrow, and it would be deemed to have been filed prior to midnight tonight. The only thing is we would be in a position not to have lost ground. There would be no advantage to it were we to do so this evening. So we then have an up or down vote.

We would first strike the four what I refer to as minor gun provisions in the

bill. We would have an up or down vote on the Stevens amendment on handgun control, which would be a substitute for the Brady provisions in the bill. That would be it for this evening.

We would then reconvene in the morning in what I hope would be a position to proceed to the completion of action on the bill. But if that proves not to be possible, and the cloture motion is necessary to be filed, it would be filed, then deemed to have been filed prior to midnight tonight so we would set it out for a cloture vote not later than Saturday.

I invite the comments of the distinguished Republican leader on what I have just stated.

Mr. DOLE. Mr. President, let me underscore another reason. The majority leader has the choice to file cloture right now or to ask consent to file it tomorrow, and it be deemed to be filed before midnight tonight. If he files cloture now, I think it might jeopardize the disposition of the Stevens amendment.

So I hope that we will proceed as outlined by the majority leader. I would be happy to join the distinguished Senator from Delaware in a motion to strike out those four provisions, and then we would lay down the Stevens amendment—I think everybody is familiar with it—maybe 1 hour of debate equally divided. We would give the majority leader consent to do as he suggested if it is necessary tomorrow that he file cloture tomorrow, deemed to have been filed before midnight tonight. It seems to me that is an orderly way to proceed.

That still leaves us with a $64 question. If the Stevens amendment is adopted, that is one thing. If the Stevens amendment fails, then the so-called Brady amendment still is in the bill, and the question then becomes whether you move to strike that provision, whether you do nothing, whether you offer a compromise.

I think there is some division on this side, maybe none on the other side, on how that is approached. Some would say, well, one more vote on striking the Brady bill. Others of us feel we ought to try to compromise the differences and vote on the compromise. Whether or not that contained the preemption provision has not yet been determined.

So I hope that my colleagues on this side will not object to the request I assume the majority leader will make, and, if we could resolve the questions with reference to guns, it is my thought that we might be able to get an agreement on any other amendments, not try to dispose of all of those tomorrow, but agree that only these amendments will be in order, and maybe complete action as soon as we are back for the second day.

The Senator asked me a good question. What do we do if we win?

Mr. MITCHELL. We do the same thing as if the reverse happens: We go home and sleep on it, as I think we ought to do anyway. It has been a very long and difficult effort. I must say that the negotiations at all levels have been conducted in perfectly good faith, in a very serious effort to resolve honest differences of approach on an important but contentious issue. I hope we can do this so we can begin to move toward bringing this matter to a conclusion.

Mr. President, following this discussion, unless any Senator has a question, I will proceed to propound the request.

Mr. RUDMAN. Will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. RUDMAN. I certainly will have no objection to what the leader has just captioned, but I have this question: There are some of us who realize how important this gun issue is, but who have other issues which we think are as important, or maybe more important. I have waited the entire day, hoping to offer an amendment, which will take maybe a half an hour, on which we can have a very energetic debate with my friend from Delaware.

I would hope, if we are going to get into long negotiations again tomorrow, that while those are going on, at least we can address some other issues. I do not ask the majority leader to put that in his request. His word is good enough for me. I just hope we can do that tomorrow.

Mr. BIDEN. Mr. President, if the majority leader will yield for a moment for me to respond. I first say to my friend from New Hampshire that I will be delighted to do that and guaranteee him that we will vote on his amendment tomorrow. But it is my sincere desire that between now and 10 o'clock tomorrow morning—it is 28 minutes before 12—he will go home and sleep on his amendment, and maybe leave it under his pillow and not come back with it. But if he does, we are prepared to enter into a time agreement, debate it, and vote on it.

Mr. RUDMAN. I thank my friend. I assure my friend from Delaware that I will sleep on it; it will be a short night, so I will not sleep on it too long, but I will try.

Mr. CHAFEE. Mr. President, can I just ask this: When the majority leader is through with his unanimous-consent request, and we have this vote, then do we go home for the night?

Mr. MITCHELL. We will have this vote after 1 hour of debate, and then we will go home.

Mr. CHAFEE. That is right. Who cares about 1 hour at this time. When we are through with the hour, that will be the last vote of the evening?

Mr. MITCHELL. That is right. I anticipate that the first amendment by Senator BIDEN to strike certain provisions of the bill, to which I referred, will not require a vote, will not require any debate, and it will be done by consent in about a minute. And then Senator STEVENS will be recognized for 1 hour of debate and a vote on his amendment, and that will be it for tonight. We do not know what will happen. We will come back in the morning and decide. The distinguished Republican leader laid out what the options are about proceeding then.

Mr. CHAFEE. I think it would be well to stress that under the Senate rules, they need not use the full hour.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BIDEN be recognized to offer an amendment to strike certain provisions of the bill; that there be 1 minute for debate, equally divided, with no amendments to the language proposed to be stricken in order; that following the disposition of the Biden amendment, Senator STEVENS be recognized to offer a handgun control amendment on which there will be 1 hour for debate, equally divided in the usual form; that no second-degree amendments or amendments to language proposed to be stricken be in order; that no motions to recommit be in order during the pendency of these amendments; and that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, proceed to vote on the Stevens amendment.

I further ask unanimous consent that if the cloture motion on the bill is filed tomorrow, Friday, June 28, it be deemed to have been filed today, Thursday, June 27.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, then Senators should be aware that a vote will occur on the Stevens amendment, up or down, in approximately 1 hour or less, if all the time is not used. I thank my colleagues for their cooperation.

I yield the floor.

AMENDMENT NO. 428

Mr. BIDEN. Mr. President, I send an amendment to the desk on behalf of myself, Senator DOLE, and Senator THURMOND.

Mr. STEVENS. Mr. President, I reserve the right to object. I would like to inquire of the Senator from Delaware, will that strike title 12, subtitle C, title 12, section 1237, title 12, sections 1223 and 1245?

Mr. BIDEN. That is precisely correct. It strikes all of that and no more.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, Mr. DOLE, and Mr. THURMOND, proposes an amendment numbered 428.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 140, strike from line 3 through line 20.

On page 149, strike from line 13 through line 24.

On page 153, strike all from line 1 through line 19 on page 158.

Mr. BIDEN. Under the 1-minute time limitation, Mr. President, and admonition of the Senator from Rhode Island, I yield the floor and yield back my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DOLE. We yield back all our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 428) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 429

(Purpose: To amend title 18, United States Code, to establish procedures for mandatory instant background checks of the criminal histories of prospective buyers of handguns and to establish mandatory prison sentences for the commission of a crime with a firearm in addition to any other penalties)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 429.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 236, strike line 9 and all that follows through the end of the bill and insert the following:

SEC. 2701. MANDATORY INSTANT IDENTIFICATION OF FELONS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Mandatory Instant Identification of Felons Act of 1991".

(b) FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.—

(1) STATE INSTANT CRIMINAL CHECK SYSTEM.—(A) Not later than the date that is 24 months after the date of this Act, each State shall establish and maintain an operations system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate the transferee is disqualified from receiving a handgun by reason of section 922 (g) or (n) of title 18, United States Code, and, if the transferee is not so disqualified, provides the licensee a unique identification number with respect to the transfer.

(E) A State instant criminal check system shall—

(i) provide for the privacy and security of the information contained in the system;

(ii) ensure that information conveyed to the system by a licensee pursuant to section 922(u)(1) of title 18, United States Code, is not recorded or noted in any form whatsoever, is not conveyed to any person except as person who has a need to know in order to carry out the purpose of that section, and is not used for any purpose other than to carry out that section; and

(iii) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information in accordance with subparagraph (C).

(c)(i) A State instant criminal check system shall provide that if the system informs a licensee that receipt of a handgun by a prospective transferee would violate section 922 (c) or (n) of title 18, United States Code, the transferee may request the head of the system to provide such other person with the reasons therefor.

(ii) On receipt of a request under clause (i), the head of a State instant criminal check system shall immediately comply with the request.

(iii) The transferee may submit to the head of the State system information to correct, clarify, or supplement records of the system with respect to the transferee.

(iv) After receipt of information under clause (iii), the head of the State system shall immediately consider the information, investigate the matter further, correct all erroneous State records relating to the transferee, and give notice of the error to any Federal department or agency or any State that was the source of the erroneous records.

(2) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(A) require that any record or portion thereof generated by a search of the criminal history of a prospective transferee under a State instant criminal check system established under paragraph (1) be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(B) use information provided by a State instant criminal check system established under paragraph (1) to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a handgun.

(3) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, as amended by section 702, is amended by adding at the end the following:

"(u)(1) Effective 24 months after the date of enactment of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer the licensee contacts the State instant criminal check system; and

"(E) the State system notifies the licensee that—

"(i) the State system, after a review of records, including records in the Federal National Crime Information Computer, has not located any record that demonstrates that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title; or

"(ii) the State system will not be able to respond to the licensee before the end of the next business day.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer; or

"(C) on application of the transferor, the head of the State system has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the system because of the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(B) Any action by the Secretary under subparagraph (A) shall be taken in accordance with the procedures provided in section 923(f).

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action of law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful under this section.".

(4) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(B) any combination of parts from which a firearm described in subparagraph (A) can be readily assembled.".

(5) PENALTY.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(B) by adding at the end the following:

"(4)(A) Whoever willfully violates subsection (u) of section 922 shall be fined not more than $1,000, imprisoned for not more than one year, or both, except as provided in subparagraph (E).

"(B) In a case of a violation under subparagraph (A) in connection with a transaction in which the transferee of a handgun is a person whose receipt of the handgun was not unlawful under this section, the offender shall be fined not more than $500, imprisoned not more than six months, or both.".

(c) IMPROVEMENT OF CRIMINAL JUSTICE RECORDS—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation;

(ii) the development of hardward and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(B) There are authorized to be appropriated such sums as are necessary to carry out subparagraph (A).

(2) PROVISION OF STATE CRIMINAL RECORDS TO THE FEDERAL CRIMINAL RECORDS SYSTEM.—Not later than 60 days after the date of enactment of this Act the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the Federal criminal records system and the means by which State criminal records systems will communicate with the Federal system;

(B) investigate the criminal records system of each State and determine for each State the extent and degree of accuracy of criminal records that each State should, with reasonable effort, be able to provide, and will be required to provide, to the Federal system by the effective date of section 922(u) of title 18, United States Code, and thereafter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(3) FEDERAL SYSTEM.—Not later than the effective date of subsection (u) of section 922, United States Code, the Attorney General shall provide to each State computer access through the National Crime Information Computer to the criminal records contained in the computer including the records of other States through a computer network for the purpose of permitting the State to conduct instant criminal background checks required by section 922(u) of title 18, United States Code.

(4) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 (g) or (n) of title 18, United States Code, as may be necessary to enable the National Crime Information Computer to operate in accordance with this subsection. On request of the Attorney General, the head of such department or agency shall furnish such information to the Attorney General.

(5) IMPROVEMENTS IN STATE RECORDS.—

(A) IN GENERAL.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(i) in paragraph (2) by striking the "and" after the semicolon;

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Mandatory Instant Identification of Felons Act of 1991 with the United States Attorney General for the purpose of implementing the Mandatory Instant Identification of Felons Act of 1991.".

(B) ADDITIONAL FUNDING.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end thereof the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1992 and all fiscal years thereafter $100,000,000 for the purpose of implementing the provisions of subsection (b)(4).".

(6) WITHHOLDING FUNDS.—Effective on the effective date of subsection (u) of section 922, United States Code, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with subsection (b)(1)(A) of this section and section 922(u) of title 18, United States Code, as added by this section.

(d) INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release unless the death penalty is imposed under another provision of law.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

Mr. STEVENS. Mr. President, I feel a little strange at this point, because the amendment that I had prepared and had been waiting to present had provisions to deal with six specific items in Senate bill 1241. The four that have just been stricken were part of the amendment. What has just been eliminated now in the amendment offered by the Senator from Delaware is: The magazine ban and registration provision, the multiple sale registration provision, the pretrial detention for gun crimes, and the misdemeanor forfeiture of rights provision. They were four of the six provisions that we had substantial objections to.

The amendment I have sent to the desk provides for a mandatory instant identification of felons to prevent the purchase of guns by those who are already prohibited under existing law from purchasing guns. It is the argument of those who back the Brady bill that the Brady bill is necessary to prevent felons from getting guns. Yet, the Brady bill does not mandate any check of the history of the prospective purchasers of guns. My amendment will. It will mandate the instant criminal history background check of prospective purchasers of handguns, while preserving the second amendment historic rights of law-abiding citizens.

Twenty-four months after enactment there will be mandatory checks from an improved State and Federal criminal history record or if a State does not comply with that the price will be the loss of justice assistance grants.

This amendment authorizes $100 million in Federal grants to assist in the establishment of this background check system. It does have protections for individuals in it concerning the use of such information and will prohibit any kind of a national registration list as a result of an instant check system. It will mandate 10 years in prison for commission of violent or drug trafficking crimes with a firearm; if a firearm discharges with intent to injure, the penalty is 20 years; if the firearm is a machinegun or silencer, 30 years; repeated offenders receive additional penalties.

I might say that provision was added by the distinguished Senator from

Texas [Mr. GRAMM] and he will discuss that section.

The amendment will direct the Attorney General to expedite the incorporation of the remaining State criminal history record into the Federal record system and expedite the revitalization of initiatives for technologically advanced fingerprint and criminal record identification. This is an amendment that will set up a system which will prevent those who should not purchase guns through our gun stores throughout the country to acquire guns contrary to existing law.

Mr. President, this crime bill has more restrictive gun control provisions than any legislation we have considered since the Gun Control Act of 1968. The gun control provisions in this bill will ban some guns outright and establish a national waiting period for handgun purchases.

These restrictions will do nothing to reduce violent crime. My amendment strikes the waiting period and in its place requires a mandatory instant criminal background check and mandatory sentences for commission of a crime with a firearm.

We should eliminate the national waiting period in this bill for one simple reason: It will not do anything to reduce crime.

Virtually no felon who wants a firearm to commit a crime buys it from a gun store. A review of States who have waiting periods or background checks for gun buyers bears this out. Generally less than 1 percent of all who obtained a weapon from a gun store had a criminal background. And there is evidence to suggest that even these purchases were for something other than criminal acts or out of ignorance about the restrictions.

Percent of denials based on felony criminal convictions in jurisdictions with waiting periods and background checks[1]

	Percent
New Jersey	.725
Columbus, Georgia	.141
Illinois	1.62
Pennsylvania	.0348
Virginia	1.2

[1] Source: Daniel B. Kopel, Independence Issue Paper No. 4-91, Independence Institute, March 25, 1991.

If waiting periods reduced crime, why is crime so high in waiting period States? Sixty-seven percent of all homicides occur in States with waiting periods, 33 percent happened in States without them; 74 percent of all violent crime occurred in States with waiting periods, while 24 percent occurred in States without them. While California's waiting period was increasing from 2 days to 15, the homicide rate was increasing 132 percent—more than double the national average.

California's experience with waiting periods is instructive. While its waiting periods did not reduce crime, the information generated by the waiting period has led to the creation of a government database of gun owners. This is precisely what the lawful gunowner fears will happen if the national waiting period in this bill is enacted.

We should eliminate the waiting period and other gun control provisions in this bill for another reason: There is no correlation between gun ownership percentages and crime rates. From 1900 to 1930 the American per capita handgun ownership was unchanged. During this period, the homicide rate increased tenfold. From 1937 to 1963, handgun ownership rose 250 percent. Homicides decreased 35.7 percent.

There is irony in this waiting period proposal. The sponsors say it is needed to curb urban crime. Yet most urban areas, and even the States that surround these high crime urban areas, already have waiting periods and background checks. Therefore, the national waiting period in this bill will be imposed generally on States that do not have major crime problems and do not supply illegal guns to high crime urban areas. This is unjustified. There's no reason to infringe on the second amendment rights of Alaskans in order to tackle the crime problems of cities such as Washington, DC, and New York City.

Nobody should be under any illusions that passing these gun control provisions will be the end of gun control legislation. This bill is just the beginning of a flood of restrictions planned by gun control advocates. That is because these provisions will not reduce crime. When that becomes apparent, it will be argued that we need even tougher provisions. Once you buy into the argument that restricting lawful ownership reduces crime, there will be no end to the demands for greater controls.

This is not just a theory. Already, one gun control proponent in the other body has announced the next step. He will soon introduce legislation for a complete national registration list of every honest American gun owner.

If you think there is a crime epidemic now, wait until arms are taken out of the hands of honest citizens. A 1986 study of felons found that 56 percent were more worried about confronting an armed victim than running into the police. Fifty-two percent said a criminal would not approach a victim that is armed.

Private gun use for personal protection against criminals is common. In fact, it is about as frequent as the arrests made by the police. In 1980 alone, guns were used for personal protection about 1 million times. My amendment would strike most of the gun control provisions in this bill.

My amendment would also establish a system for instant criminal background checks of all handgun buyers. The statistics show that only a tiny fraction of gun purchases from gun stores are made by felons. Nevertheless, I am willing to set up systems to check the backgrounds of prospective purchasers because this amounts to nothing more than enforcement of existing law.

My amendment will also improve both the accuracy and access to the Nation's criminal records systems. It authorizes $100,000,000 in grants to States to improve criminal records and set up instant check systems. The amendment also conditions the Justice assistance grants which States now receive on the establishment of background check systems.

The amendment also authorizes such sums as are necessary for the Federal Government to accelerate current efforts to upgrade its already substantial criminal history database. Accelerated criminal records improvements will be useful far beyond background checks for handgun purchasers. Record upgrades will assist our law enforcement efforts in many different areas.

More accurate records will mean better protection for police officers and the public. The records improvement efforts under the bill will be given 24 months to complete. The Director of the Federal Bureau of Investigation has said that he needs only 18 months to upgrade all existing Federal criminal records. Once this is done, the FBI files will include the records of most young active criminals. My amendment provides 24 months for States to establish background check systems.

My amendment will not permit the registration of either a gun or a gun owner. In fact, the amendment specifically prohibits keeping any records about lawful sales. This will eliminate the possibility of an assembly of gun registration lists by local, State, or Federal authorities.

The point-of-sale background check systems which my amendment sets up are feasible. The State of Virgina has a system that gun dealers access by telephone to learn if a prospective gun buyer has felony record. The average time for a background check in Virginia is under 2 minutes. Delaware and Florida have also developed systems similar to the one in Virginia.

The Justice Department prefers background checks to waiting periods. On March 21, Paul NcNulty, Acting Director of the Office of Policy Development at the Department of Justice, testified before the House Judiciary Committee:

> If the Department is going to devote its resources to an identification program, the point-of-sale approach is preferable. * * * it must be emphasized that the desirability of the point-of-sale system is that it involves instant background checks that are just as reliable as those performed during a 7-day waiting period. Both identification systems are dependent upon the same criminal history records.

As this Justice official notes, a national point-of-sale system, like a waiting period for handgun purchases, depends on accessible criminal records.

The records on over 23 million felons are automated and are available in the national criminal information computer. It is important to realize that regardless of whether Congress sets up a point-of-sale background check system or requires a waiting period before a handgun purchase, more must be done to make criminal records more accessible.

The advantages in criminal records improvement of my amendment over S. 1241 are substantial. My amendment will mean more resources and incentives for overall records improvement than the bill. My amendment offers a deadline to get our Federal records up to date. It also gives authority to the Attorney General to set deadlines for State record improvements.

Waiting periods do not stop crime. But swift and sure justice will. Consider this statistic from the Department of Justice. Unarmed felons were asked why they did not carry a gun during the commission of their crime. Fully 79 percent said stiffer penalties for carrying firearms during the offense was the reason.

My amendment increases the penalties for crimes committed with firearms. It mandates 10-year prison sentences for the commission of a violent or a drug trafficking crime with a firearm. If the firearm discharges with intent to injure during the crime, the penalty is 20 years. If the firearm is a machinegun or has a silencer, the penalty is 30 years. Repeat offenders face additional penalties. All mandatory penalties are in addition to any penalty imposed for the underlying crime.

Let me conclude by saying the vote on this amendment is going to tell whether you want to control criminal behavior or control the rights of honest, lawful Americans who own guns.

I urge my colleagues to adopt the amendment.

Thank you, Mr. President.

Mr. President, I want to point out that we do have records right now of over 23 million felons that are automated and are available in the National Criminal Information Computer. The Brady bill does not set up any mandated check; it merely provides for a waiting period.

I know that there is a philosophically significant position of difference between Members of the Senate. I cannot buy the fact that the waiting period for the thousands of legal citizens, people who have a right to buy guns, people who have a need for guns, for them to wait merely because some people believe that if a waiting period were put in effect there would be less people who would seek to acquire guns illegally and for criminal purposes.

It is important to realize that regardless of whether Congress sets up a point of sale background check system or requires a waiting period for handgun purchase, more needs to be done for criminal records to make this information more accessible. That is one of the major intentions of this amendment.

Mr. President, I would be pleased to answer any questions anyone has about this amendment. As I said, I feel like I am presenting a rather robust turkey that has just been plucked, because some of the amendment has been taken out and what we are really looking at now is a concept of trying to offset this rather well-hyped concept of a waiting period.

I take the position that a waiting period is nothing but a preliminary to another series of bills that will be offered. As a matter of fact, a proponent of this Brady bill in the House has already announced a national gun registration bill, and that is why we are here tonight. We want to try to make people realize that a vote for the Brady bill merely sets in motion the next step of the whole development of control of guns by those who have a right to have them under our Constitution.

It is, and I am glad to see the Senator from Ohio on his feet, a clear difference of opinion between the Senator from Ohio and me, and those who agree with me, that we do have a right to have guns. We have a use for handguns. And there are legal ways to obtain handguns now.

It is unfortunate that the drive is now starting, I believe, in this country to ultimately take away from us the guns we wish to use in our lifestyle. It is a very regional split in this country. It is going to lead to great division in this country in my opinion if this split continues.

I urge the Senate to support this amendment. It is a strigent requirement to check to prevent the acquisition of guns by those who have no right to them, those who have already been denied the right to them under current law.

Mr. President, how much time have I used, please?

The PRESIDING OFFICER. The Senator has used 8 minutes.

Mr. STEVENS. I wish to yield from my time 10 minutes to the Senator from Idaho [Mr. CRAIG]; 5 minutes to the Senator from Texas [Mr. GRAMM]; 2 minutes to the Senator from Idaho [Mr. SYMMS]; 3 minutes to the Senator from New Hampshire [Mr. SMITH]; and retain the remainder for myself.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Mr. President, is the Senator from Delaware charged with the time in opposition?

The PRESIDING OFFICER. The Senator opposed to the amendment is in charge of the time.

Mr. BIDEN. Yes. I want to make sure.

Mr. STEVENS. They do not seek that time now. I am sure the Senator from Ohio is ready to speak. I just want to allocate the time rather than yield it. I allocate the time made available to me in the manner I just indicated. I understand it will leave 2 minutes to me.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield 6 minutes to my distinguished friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I appreciate the time allocated to me by the managers of the bill.

I rise to say that we need some clarification as to where we are. There is not anybody in the U.S. Senate that I know of who wants to take away anybody's gun. There is no provision in this bill that is pending before us, there is no provision in the Brady bill, the Brady amendment. Nobody has any desire to take away anybody's gun.

What we are talking about is a totally different issue. We are talking about passing the Brady bill, which provides for 1-week waiting period. And we are also talking about this new proposal which is the so-called Staggers amendment. Under this amendment it calls for an instant check within 2 years as to whether or not a person has a criminal record or has a mental record.

The NRA is singing the same old song in an effort to defeat the Brady bill. The NRA somehow thinks that this amendment which was originally known as the Staggers amendment is going to solve the problem. At least it is going to make it appear to solve the problem.

Three years ago there was a McCollum amendment. And that amendment told the Attorney General to implement the instant check within 1 year. All those things are fine. Tell the Attorney General to do it in 6 weeks, tell him to do it in 1 year, tell him to do in 3 years. We are still waiting for the Attorney General, and nobody believes that it can be done in that short a period of time. And yet the idea is we will get this instant check, so-called, or think that we are going to get it, and therefore eliminate the need for the waiting period.

Now last month in the House the Staggers amendment was said to set up an instant check system of months, everybody has a new idea: 6 months, 1 year, 2 years, 3 years. The only problem is it cannot be done. The House wisely rejected that amendment and passed the Brady bill instead.

Last year I asked the Office of Technology Assessment to conduct a study on an automated system to identify felons who try to purchase firearms. I asked them to tell us truthfully how long will it take to have one of these automated systems in effect so you can press a button and find out whether the

individual who is applying to get a gun has a criminal record. One Senator on the OTA board has held up that report and the report is very relevant to this issue.

Senators have a right to know what the OTA findings are. Since the final report is not available, I am going to cite from the Office of Technology Assessment draft what they indicated in that draft and the final report is not out as yet. I had hoped that it would be.

In that report, it provides that, and they tell us that an instant check will take 5 to 10 years to develop, not 2 years, not 1 year, not 6 months. They tell us that it will cost hundreds of millions of dollars. They tell us that the waiting period can work in the interim. That is what we say in the Brady bill. Let the Brady bill be put into effect, provide for the waiting period, and when that instant check day comes along we do not have any more problem about the waiting period.

Until a nationwide instant check is possible, there should be a Brady bill in effect. It is in the proposal that is before us. We ought to leave it in.

The facts are clear. We are not going to have an instant check any time soon. Whether you pass the Stevens amendment or the Staggers amendment or the McCollum amendment or anybody else's amendment, passing an amendment does not provide an instant check.

Under this amendment, it states that if there is not an instant check in 2 years, they will lose justice assistance grants. Nobody wants them to lose justice assistance grants. We want the money to be available. Why should we deprive those who are in need—the law enforcement officials, the legal departments, others who need the money—of the legal assistance grants?

It is not a question of dollars. It is a question of what makes sense for this country. Those grants total $425 million and this amendment orders the States to do the impossible or to lose their share of that $425 million. I for one do not want to see them lose that money and I do not believe that any Member of the Senate wants to see their State deprived of the legal assistance grant. That is not a realistic approach. It takes their law enforcement money away when they fail. Why do that? That is only compounding the problem. This is what I call a solution that exacerbates the problem rather than helps solve the problem.

This amendment is nothing more than a sham to make the American people think that we are doing something to keep guns from criminals. It would not do that. I urge my colleagues to stand up to the NRA and stand with the police of this country. The police of this country are opposed on this amendment. They support the Brady amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I yield the Senator an additional minute.

Mr. METZENBAUM. We should stand against the NRA, stand up with the police officers of this country, stand up with the forces of law and order, and vote against this sham amendment to kill the Brady bill. It will serve no useful purpose. It just serves to confuse the issue, and it will be counterproductive.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, talk about a sham. A waiting period has turned out to be in this country nothing more than a sham. Let me just give my colleagues a little bit of the record on how it actually has worked.

No. 1, it will divert law enforcement people and resources from being on the street fighting crime to being paper shufflers in the office. It diverts our attention from criminals to guns. It is not working in the States that we have it.

Mr. President, 80 percent of all illegally used firearms are acquired illegally right now. The bill would do nothing to curb the incidence of crime and violence on America's streets. The waiting period simply does not work.

For example, States like Connecticut, California, and Washington have an increase in violent crimes since they have had a waiting period. Indiana, California, Minnesota, New York, and Connecticut all have waiting periods. During the 20-year period they have had waiting periods, the Indiana homicide rates went up 70 percent; the California rate, 82 percent; Minnesota, 56 percent; Connecticut, 146 percent; and New York, where they have all kinds of gun control, 131 percent.

And look at some of the States that do not have a waiting period: In Alaska, homicides were down 16 percent; Nevada, 24 percent; Delaware dropped 35 percent; Vermont plummeted 39 percent. In my own State of Idaho, it dropped 40 percent.

Violent crimes statistics tell the same story, Mr. President. This is a diversion of law enforcement resources. It is a sham to pull on the American people. We should get back to the business of punishing criminals and not try to say somehow a waiting period is going to have any impact on guns.

I urge my colleagues to support the Stevens amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The junior Senator from Idaho is recognized for 10 minutes.

Mr. STEVENS. Mr. President, would the Senator agree to agree to reduce that to 5 minutes?

Mr. CRAIG. Yes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Mr. President, amendment No. 429 that my colleague from Alaska has put forth is in fact probably the most realistic way to arrive at keeping handguns out of the hands of felons.

There is no question that my colleague from Ohio talks eloquently about what the Brady bill or a version of the Brady bill might or might not do. But in reality, Mr. President, what it is is simply clear politics. It is truly a sham that builds a sense of insecurity in the average American who believes that Brady might ultimately keep a firearm out of the hand of a felon. Reality says it will not happen.

Let me define what a felon is. A felon is a criminal. By that definition, a criminal violates the law. So are we going to put a new law in place and say criminals will follow the law, and in that process, Mr. President, we will detect them and we will disallow them the right to acquire a gun through these "legal methods?"

To be able to provide an instantaneous, accurate background check, as this amendment would provide in the firearm statutes of this country, is by far the most realistic way to deal with this problem. We do not target the law-abiding gunowner. We target the criminal. I think it would be exciting if this body could pass a criminal law that leaves the law-abiding citizen alone and goes after that individual who, in fact, by definition violates the law. And that is what we are about to attempt to do.

We would recognize that within 24 months after enactment—and the Attorney General says with the right resources we can have this kind of record check in place 24 months after enactment—States must conduct background checks from improved State and Federal criminal history records or risk the loss of justice assistance grants.

What is wrong with tightening the string on the States? We already jerk them around too much. Now we are saying we ought to use some of these Federal dollars to assure that a proper checking mechanism moves through the States to the Federal mechanism as it ought to be allowed to do.

Tonight you have an opportunity to vote for something that will work—or do you want to play politics with your constituents back home and say, guess what we have given you? We have given you a nice, comfortable 7-day game that by this very law will not work, but in this sense of great comfort and security, that one out of six firearms that is used in the commission of a crime, Mr. President, that is acquired through this mechanism, might be detected.

Now that is the reality of the politics we are playing with tonight. Nobody would dare suggest that we are playing with second amendment rights, but we

are. We are in fact saying to that average American citizen we are going to for just a moment squeeze those rights that for over 200 years we have deemed as sacred. And the reason we are going to do that is because we have failed in crafting effective criminal law in this country that recognizes and penalizes the individual who does not abide by the law. That is what is being done this evening, and it is in fact a travesty that we should even suggest that we would want to do something like this.

The best law in the country that you can implement is a law that implements itself, a law that the average American recognizes and works; they believe in it, and in so believing in it, they abide by it.

My colleague from Ohio is suggesting that that kind of thing will happen by just putting 7-day waiting periods in place and everybody will truck off down to their local gunship and they will acquire a firearm and they will wait for the process to work.

That will not happen with the criminal element of this country. When they know that for some reason they will be screened and checked, they will go into the blackmarket on the corner of the street, the trunks of the cars of that market will come up, and there will be not one criminal who chooses to violate the laws of this country and use a handgun for the purpose of that violation that will be without one.

That is the reality of what we are doing here tonight. I suggest this is a clear opportunity. To vote for Stevens is to vote for a mechanism that in the process the law enforcement community of this country will work, Mr. President, and that is the kind of law that the citizens of this country deserve.

The PRESIDING OFFICER (Mr. WIRTH). The time of the Senator from Illinois has expired. Who yields time? The Senator from Texas has 5 minutes.

Mr. GRAMM. Mr. President, let me be sure everybody knows exactly what we are are talking about here. We are talking about, in the so-called Brady bill, a 7-day waiting period where the States are not forced to even do a check. We are comparing that to a comprehensive proposal that has been presented to us by Senator STEVENS that sets up, with the assistance of $100 million of Federal money, an instant check system. So when somebody goes in to buy a firearm there will be an instantaneous check to see if, under the law, they are prohibited from having that firearm. And, also, we institute not gun control but criminal control: stiff, minimum, mandatory sentences without parole; 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony. That is in addition to the penalty imposed for the underlying crime you committed. Twenty years without parole for discharging the firearm and a mandatory life imprisonment without parole if you kill somebody; also, you are subject under provisions already adopted in this bill to be put to death for killing somebody.

That is what I call deterrence.

Let me remind my colleagues that many of the studies that have tried to actually look at data as to how many criminals are actually getting guns out of stores are reaching pretty startling conclusions. For those who specialize in handgun crimes, only about 7 percent of them got their guns from stores. For criminals as a whole, of the guns that have been obtained for use in crime, only about 12 percent of those came from stores.

So, Mr. President, what we need is an effective crime control measure. And what Senator STEVENS has given us is an instantaneous check to verify whether people are prohibited from buying a gun and denying them legal purchase. We also provide stiff, minimum, mandatory sentences for those who use guns to violate the law.

What we have here is a clear choice. If you are for gun control, if you want to limit the ability of law-abiding citizens to buy guns, then you want to vote against the Stevens amendment. If you want to follow a path that many of our States have followed to gun control, you want to vote "no" on the amendment of Senator STEVENS. On the other hand, if you want to deal with criminals, the people who are dangerous when they have guns, then you want to vote for the Stevens amendment.

The Stevens amendment is a mandatory check which States are required to conduct, or risk losing Federal funds.

So, we present an effective system to determine who is and who is not eligible to buy a firearm and we have effective criminal control.

In conclusion, let me say that criminals are going to get guns. We see that every day in the District of Columbia, where we have the tightest gun control laws in the country.

The only way we are going to keep criminals from using those guns is to have stiff penalties, to have effective law enforcement, and to grab these gun thugs by the throat. And that is what the Stevens amendment does.

I urge my colleagues, if you oppose gun control, if you are for criminal control, then vote for the Stevens amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire is recognized for 3 minutes.

Mr. SMITH. Mr. President, I want to first of all compliment Senator STEVENS for his leadership on this issue, standing up for the Constitution of the United States. There has been much made in this debate—I believe the Senator from Ohio said it most recently—that we are standing up for the NRA. Somehow we have gotten things twisted around. We are standing up for the Constitution of the United States of America.

The second amendment says very clearly: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

I am not a lawyer, but how are you going to get it any clearer than that? How can you interpret it any different than that? Where do you get a 3-, 5-, 7- or a 15-day waiting period out of that amendment? Where do you get handguns, rifles, collector pieces banned, from that amendment?

Mr. SIMON. Will my colleague yield?

Mr. SMITH. Not at this time.

Would it not be nice to find out just what might happen? Are you afraid to learn what would happen if you put criminals in jail 10 years for the first offense with a gun, 20 years if they fire it, 30 years if they use a machinegun with a silencer? Would it not be nice to find that out? I guess we do not want to find that out. That is the truth of that matter.

Early historical comments on this subject are very clear.

Aristotle: "Basic to tryants is a mistrust of the people. They deprive them of the arms."

Madison, in Federalist 46, assured Americans they need never fear the Federal Government because of the advantage of being armed which they possess over the people in almost every other nation.

Mr. President, the langauge is very clear. The Stevens amendment does what we want it to do because we support the Constitution of the United States, not the NRA. That is not the issue.

In closing Mr. President, this bill does four things that are very important. It strikes out the magazine ban and registration, it strikes out the Mitchell-Brady waiting period, it strikes out multiple sales registration, and its strikes out pretrail detention for gun crimes.

It stands up for the gun owners and its stands up for the Constitution of the United States of America.

I yield back my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 1 minute.

Mr. MURKOWSKI. Mr. President, I rise today to voice my total opposition to the gun control provisions contained in S. 1241. The so-called assault weapon ban and the Brady bill will do nothing to reduce crime and will only penalize legitimate gun owners.

Title VII of S. 1241 the Antidrug, Assault Weapons Limitation Act of 1991 would ban the transfer, import, or possession of any assault weapon not lawfully possessed before the effective date

of this act. Proponents of this provision would have us believe that it is aimed at controlling crime. They would have us believe that these weapons are the weapon of choice for criminals particularly drug criminals. They would have us believe that by banning the possession of these weapons we would somehow reduce crime. They are wrong.

The people affected by this gun control measure would be the law-abiding citizens of the United States—the collectors, the target shooters, the hunters. I know that these groups rate lower than pornographers on gun control proponent's list of people worth listening to, but they are upstanding, law-abiding citizens of this great Nation and they deserve our respect. They deserve measures that will truly reduce crime. They do not deserve to be scapegoats when legislators try to impress constituents with tough talk on crime.

You might ask, why will a ban on assault weapons not reduce violent crime in America? I will tell you why not, Mr. President. It is because, by definition, criminals commit crimes. They are not deterred by paltry measures that rely on people obeying the law. Criminals do not obey the law. The guns listed in this bill will simply be added to the illegal substances that these criminals already smuggle into the country. You think we have problems now, just wait until competition in the gunrunners' black market starts to escalate, and more and more sophisticated weapons are offered. Then we will truly see war in our streets.

FBI 1988 statistics show that only 4 percent of homicides were committed with rifles. It has been estimated that only 1 percent of the total homicides committed in this country are with military style semiautomatic rifles of the type banned in this bill. In truth we do not really know how prevalent the use of these types of guns is in crime. S. 1241 would call for a study to be conducted after the implementation of this act to determine its effect on crime. Quite frankly, I do not think a study is a bad idea. But you can bet that if this study shows that this ban is ineffective, which I believe it will, those supporting the ban today will not then be calling for its repeal. No; their purpose is not to reduce crime, it is to reduce gun ownership among the general populace. It is an effort to penalize those who enjoy the responsible use of firearms by those who are irrationally opposed to their use in any circumstance.

This gun control language is only the first step toward eliminating our second amendment rights. The provisions in this act allow for the list to be increased as new guns are found to be assault weapons and are added to the list. Since the act contains no definition of assault weapon it is conceivable that every firearm will ultimately be listed under this act. After all, they can all technically be used to "assault" someone or something. That would be a leap not much greater than the leap to label legitimate semiautomatic weapons as assault rifles, when in fact the term applies only to a military rifle capable of fully automatic fire. This is not a matter of semantics, Mr. President, it is a deliberate effort to mislead and frighten the public.

This attack on honest gun owners is a two-pronged attack. S. 1241 also incudes the famous Brady bill. The Brady bill as presented in this act contains two basic provisions—one to mandate a 7-day waiting period before the purchase of a handgun and one to mandate a background check before the purchase of a handgun. The merits of these two provisions deserve to be addressed separately.

As with the assault weapon ban, there is no evidence that a waiting period will help reduce crime. In fact, evidence overwhelmingly points to waiting periods having no effect on crime. Several States currently have waiting periods. New York, New Jersey, Connecticut, California—all of these States have waiting periods and yet they have experienced no corresponding decrease in crime. And why should there be? Criminals are not going to wait 7 days for a gun. There are far easier ways for them to obtain a handgun than through a legal dealer. Most guns used in crimes are obtained illegally by criminals, not through legal gun dealers.

Again, the only people affected by this legislation will be law-abiding citizens who have every right to own a handgun. These are the people that will go into the gun store and truthfully fill out their application. These are the people that will patiently wait 7 days for what should be theirs the minute they lay their money down. Criminals will not wait. Honest people will.

How about this law's effect on crimes of passion. Will a waiting period make these people cool off and thus not commit the crime they were originally intending? I do not think so. Crimes of passion are crimes of impulse—and a crime of impulse will be committed with whatever weapon is closest at hand—not after a trip to a gun store and completing a Federal form.

I am pleased to support the amendment of my colleague, the senior Senator from Alaska.

Let me discuss, for a moment, the effect of this legislation on the State of Alaska. First, I would like to point out that a high percentage of the people in Alaska live in rural areas. In these areas there may not be a grocery store, let alone a gun store. Thus these people often need to fly, or boat, or drive hundreds of miles to the nearest gun store if they want to view an assortment of merchandise and determine which handgun is the best for their needs. With the Brady bill, these people would be foced to sit around in a hotel for 7 days. That is absolutely ridiculous. And more than that, it is completely unnecessary since these guns will not be used for criminal purposes.

Why do Alaskans need handguns? One reason is for hunting. A growing number of people prefer handguns for the challenge of the close stalk and greater skill requirement. The major reason is for protection. Often it is unwieldy to carry a rifle particularly when you are flying or traveling in the bush. In a small plane weight is a consideration and a handgun can be an essential part of the bush pilot's safety kit. Handguns can often be used to scare bears or other animals away when they are threatening your person or property.

If it is necessary, I intend to introduce an amendment that would exempt rural areas of our Western United States from the Brady bill.

Another point that many of you may not think of is the miles of lonely, uninhabited roads in Alaska. It is easy to break down on these roads and not see anyone for hours. A handgun in your car on long trips just makes good sense because if you break down there may be nobody there to save you from a predator—either four-legged or, sad to say, two-legged.

The second aspect of the Brady bill that deserves attention is the mandatory check to ensure that the purchaser is not a convicted felon. This provision makes more sense. It is already against the law for a felon to own a gun and a background check would simply ensure greater compliance with that law. However, the Brady bill ties this provision with the 7-day waiting period instead of mandating an instant check. Proponents of this linkage argue that an instant check is not feasible until more criminal records are on computer. This is a bogus argument. Seven days is not enough time to do a thorough paper-based background check. It will produce results no greater than an instant check. In fact, it would probably use precisely the same data as would an instant check, and no more.

The national crime information computer system is the only readily available source of data on criminals. It can already do an instant check on 26 million known criminals, including all 12.5 million felons since 1974 and 8.8 million felons before 1974. This system also contains 26 million nonfelony records. Any check done under the Brady bill will have to use the same records as the instant computer check.

In closing, Mr. President, I would like to simply say that the gun control measures included in this act are a smokescreen. They are an attempt to mislead our citizens about the nature of crime and what Congress is doing to combat it. If these mesures are made

law what Congress will have done to reduce crime in America will be nothing. If we are serious about reducing crime I suggest we leave off discussions of these ineffectual measures and concentrate on criminals, not honest gun owners.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 3 minutes to my friend from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. SIMON. Mr. President, I hope we will reject this amendment. To my friend from New Hampshire who just spoke about the Constitution, the Constitution, every court decision says, has limitations. No one suggests every citizen has a right to nuclear weapons, for example. The courts have recognized common sense has to apply.

Number 2, common sense; what is it? The State of Illinois has a waiting period. In 1988, 2,470 convicted felons were denied the right to buy a gun. Can anyone tell me that the State of Illinois would be better off if those people had been able to walk in and buy guns?

Last year, counting the firearms identification taken away by the courts, it was almost 3,000. I do not see either of my colleagues from Pennsylvania on the floor right now, but the State of Pennsylvania keeps track of those who apply and who actually gets guns. The Attorney General of Pennsylvania testified the other day that a couple of years ago 54,000 people applied for guns and then did not buy them.

What happens is someone from South Dakota has a fight with his wife and she or he runs down to the store to buy a gun. And they say, "Sorry, we have a cooling off period."

Let me tell my colleagues, that cooling off period has saved lives in Pennsylvania and it will save lives in this country.

We have to have some common sense. No one—I do not believe a single Member of the U.S. Senate, wants to take away guns from responsible citizens. I live in hunting territory down in deep southern Illinois. Our home is right next to the Shawnee National Forest. Most days I would really see more deer than people. But I do not think anyone really believes that having a cooling off period is depriving any responsible citizens of a right. I hope we reject this amendment and do what is the right thing.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 3 minutes to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. BINGAMAN. Mr. President, I want to clarify my understanding of the amendment and the choice before the Senate this evening because I do not think it has been properly characterized. The argument was made that we have a choice between a statute that requires a check, being the Stevens amendment, and a statute that does not. That is not my understanding of the legislation that was reported to the Senate containing the Mitchell amendment. I understand the Mitchell-Kohl-Gore provision, which is in the bill before us, does require a check. It is not simply a waiting period. I think that is a very important distinction for folks to have in mind between the original Brady bill and the legislation we, in fact, have before us today.

The idea that this amendment, the STEVENS amendment, is going to, for the first time, impose mandatory prison sentences I find somewhat hard to understand, also. We adopted an amendment this morning by Senator D'AMATO, for himself and Senator DOLE, which imposed mandatory prison terms, very much the same mandatory prison terms which are reflected in this amendment and, in fact, more stringent. I believe we had a death penalty in the amendment that we had here today. I do not see a death penalty in the Stevens amendment. I think it is an oversight, I am sure, and something we need to see corrected. We have mandatory minimum prison sentences in the legislation as it presently sits before the Senate today.

I also point out that the Stevens amendment, as I read it, really has no effective sanction against a State for failing to go ahead and institute an instant check system. There is a provision on page 11 that says, witholding of funds on the effective date of this section, the Attorney General may refuse to make grants. That is the kind of sanction we are imposing upon a State. Not that he shall refuse to make grants but that he may refuse to make grants if, in his judgment, there is something improper about making grants.

I suggest to the Senate that is not a very strong sanction or a very strong stick to force State action to do the kind of difficult job that is required in order to get this instant check system up and running.

I believe it is important that we have a statute that deals with the problem of sales to convicted felons. I believe the Mitchell-Kohl-Gore provision, which is in the bill that is pending before us at this time, is an effective effort to do that. I hope the Stevens amendment will be defeated. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 5 minutes to my colleague from Wisconsin.

Mr. KOHL. Mr. President, the hour is late and this speech will not be long. I just want to make three points for the RECORD and for any of my colleagues who have not yet decided how to vote.

First, we cannot have a national computerized instant check system in place in the time period provided by this amendment. The Attorney General has told us it will take years to create such a system; the Office of Technology Assessment says it could take a decade; no one can say with certainty we can have such a system in place in 2 years.

Second, an instant check system by itself is insufficient. I do not dispute the value of an instant check system—it is included in the bill language which Senators MITCHELL and GORE and I helped draft. If such a system were in operation, it would help us deal with the one out of five criminals who obtain their handguns through licensed dealers today. But it would not help us deal with people who have no criminal record but who do have an immediate intent to commit a criminal act.

The waiting period not only gives us time to check criminal records, it gives individuals an opportunity to cool off. We all know that murders are often committed in the heat of the moment. We call that "a crime of passion." A waiting period prevents someone from getting a gun while consumed by passion. Even the NRA recognized the validity of the arguments. According to its 1976 publication, "On Firearms Control":

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

Third, let's look at what is really happening in our society. From last August to this March, nearly 300 Americans died in the Persian Gulf. During that same time, more than 1,200 Americans were murdered in New York, more than 1,000 in Los Angeles, over 300 right here in Washington, DC—our Nation's Capital. We all know we have to deal with this problem in a variety of ways: more police, tougher laws, more certain punishment. But for goodness sake, one way to deal with it is also to impose a modest waiting period on the purchase of guns. We are not taking guns away from anyone. We are just saying that you have to wait for 7 days—1 week—before you get the gun. That does not seem like a very large sacrifice to make for a little safety.

I thank the Chair.

Mr. BIDEN. Mr. President, I yield myself 2 minutes.

Mr. President, we hear about tough penalties. My friend from Alaska speaks to that, and my friend from Texas speaks to that. Let me point out that virtually every penalty in the Stevens amendment is already in the Biden bill. The Biden bill has the death penalty for gun murders, 30 years for the use of a dangerous weapon—where a gun is used in an offense—and on down the line.

In addition, we have tough penalties for people who kill cops, and why not have something that the police want, to help prevent cops from being killed?

Second, we are not talking about cooling off periods no matter how much others may speak to that. What we are talking about is giving police 7 days to find out if a person buying a gun is a criminal. It seems to me that is the least we owe the police in addition to our talking tough, acting tough, and providing for tough penalties. The police would rather have the prospect of being more likely to be alive than have a tough penalty enforced as a consequence of not having the opportunity to determine whether or not the person buying a gun is a felon who has no right to buy a gun. It is a pretty simple debate, as far as I am concerned. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Utah is recognized for 5 minutes.

Mr. HATCH. Mr. President, let nobody make any mistake about it. If you believe in the second amendment and the right to keep and bear arms, which has been time honored in this country, this is your chance to vote for it. That is what this amendment is all about. This is the single, sole amendment that everybody knows means that you are either for or against the second amendment right to keep and bear arms. That is the amendment that is going to distinguish those who want the right to be able to buy arms and to be able to be a sports person, a firearms collector, to protect oneself, and to avoid harassment by the Federal Government, and those who do not.

There are sincere people who feel otherwise, but that is what this vote is all about.

Second, I want to compliment Jim Baker and his staff at the National Rifle Association for the work that they have done. If they had not stood in here for weeks and months on end, those four provisions that have now been knocked out of the bill, this magazine ban and gun registration amendment, would be in this bill. Multiple State registration would be in this bill. The pretrial detention for gun crimes would be in this bill. And misdemeanor forfeiture of gun ownership rights would be in this bill.

If it had not been for them, we would not have knocked those things out of the bill, and everybody knows those were onerous and burdensome provisions.

I happen to be the Senator who worked with Jim McClure and Congressman VOLKMER writing the McClure-Volkmer bill. The reason we came up with that bill was because we were tired of the way decent, law-abiding sports people were treated. We changed the definition of "engaged in business" from the prior law because people were being prosecuted for selling one firearm to a friend. Decent, law-abiding, honest people were being prosecuted. We eliminated the onerous records that they had to keep just for their ammunition. Ridiculous. We eliminated the word "inadvertent" as the standard for preapring errors in forms because people were being prosecuted because they misspelled a word.

That is how ridiculous it was. That was gun control. And that is what the Brady bill is.

Frankly, here is a chance to vote for instant check with all of the other features that have been described by my colleagues and to do something about this problem. I do not want to go back to the pre-McClure-Volkmer years. We fought hard to get that changed because we were tired of decent, law-abiding sports people getting hurt in court by people in the Government, bureaucrats and others, who just wanted to embarrass them and hurt them, and they did. A lot of good people got hurt.

Let me summarize some of the reasons I oppose the Mitchell-Brady provision. First, criminals and would-be criminals are going to be able to purchase handguns with or without the Brady bill. I have to tell you they will get them illegally. They will steal them. They will do what it takes to get guns already in circulation in order to do what they want to do, in order to avoid the waiting period.

The vast majority of felonies committed with guns are committed with illegal guns. Indeed, most people who buy a handgun already own one and a waiting period is not even of theoretical value here. The high percentage of convicted felons who possessed handguns did not obtain them from licensed dealers.

Studies over the years have shown gun control measures do not reduce crime. I have to tell you this gun control measure called the Brady bill is not going to reduce crime. It is a symbol, I have to admit and it is a total sham.

We now have 20,000 firearms regulations on the books. I have to tell you, none of these laws so far enacted have significantly reduced the rate of criminal violence.

You can go on and on. Mr. President, I just have to say this particular vote is a critical vote and everybody here better understand this is the second amendment vote. I hope most of us will stand up and vote for our right to keep and bear arms and for not having these onerous provisions, and no longer having the burdens of the overbureaucratic system that we have in Government, that we had before McClure-Volkmer. We should not retrench and go back to the past when decent, law-abiding, honest people were getting harassed.

I know my time is up and so I yield the floor.

Mr. BIDEN. Mr. President, I yield 2 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mrs. KASSEBAUM. Mr. President, I would like to make a couple of points. First, all sides agree that the best solution ultimately is a nationwide check. I do not think there is any disagreement in that.

Second, both sides have agreed to expend the funds necessary to bring that about, to give the States incentives to compile the criminal records necessary to make this possible.

Third, everyone also agrees that at present such a system is unfeasible. I simply fail to understand, Mr. President, why, until a nationwide instant check is feasible, we should not give the Brady bill a try. I certainly would not be one to argue that a waiting period will be the solution to all the crimes in this Nation, but I do not understand why, until an instant check is feasible, we are not willing to give it a try.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 2 minutes to my distinguished friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I do not want to talk about this issue in terms of statistics, polls, and surveys. I want to talk about this legislation, rather, in human terms, and I want to be very clear about what the Brady bill is and what it is not.

The Brady bill, as passed by the House of Representatives and modified by Senators MITCHELL, KOHL, and GORE, is about saving lives. That is the truth about this legislation. Opponents of this bill have called it a sham. That is not true. Opponents have said it will not do anything. That is not true. Opponents of the Brady bill have said it is unnecessary, intrusive, and not needed. That is simply not true.

What is true, Mr. President, is that the Brady bill, nothing more, nothing less, is legislation designed to keep handguns out of the hands of people who are, by law, not entitled to have them. What else is true is that we already have a law in this country that says certain people are not allowed to have handguns. We have had this law since 1968, since the year Bobby Kennedy and Martin Luther King, Jr., were killed.

I come from a State, Minnesota, which passed this bill in 1977. It has a 7-day waiting period. There was concern. It never was considered a panacea, Mr. President. But I will tell you something. From gun shop owners, to the law enforcement community, to people all across the State, this waiting period has worked well. It has kept guns out of the hands of people who should not have those guns.

I will tell you something. This is a piece of legislation that the people in this country are supportive of and want. It is time to pass it, and for that reason we must oppose and we should oppose this Stevens amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has remaining 30 seconds.

Mr. GRAMM. I yield that time to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, is my friend from New Mexico on the floor? I want to tell the Senate that I do not think Senator BINGAMAN was correct. He said that the amendment offered by the Senator from Alaska did not make the instant checks mandatory once the national system was in place.

I read it very clearly that the Stevens amendment is mandatory, and I found on page 244 of the Mitchell-Brady bill that it is not mandatory; it is optional. It says that they are required to make a reasonable effort.

The Stevens legislation says they shall establish and maintain, and it seems to me that that means one makes it mandatory, the other makes it best effort.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired. Who yields time?

The Senator from Alaska has 3 minutes remaining, the Senator from Delaware has 8 minutes remaining. Who yields time?

The Chair notes time is deducted equally from both sides. The Senator from Alaska has 2 minutes 50 seconds remaining. The Senator from Delaware has 7 minutes 50 seconds remaining.

Who yields time?

Mr. STEVENS. Mr. President, I believe the Senator from Texas has 1 minute remaining?

The PRESIDING OFFICER. The Senator had 1 minute remaining, which he yielded to the Senator from New Mexico.

Mr. STEVENS. I yield him 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. GRAMM. We had a memo from the distinguished Senator from Idaho that reviewed the impact in States that had instituted the waiting period. We had an earlier reference to Minnesota. Under the waiting period the number of homicides in Minnesota has gone up by 56 percent.

Mr. President, the bottom line is this. Waiting periods have not worked. In the States where they have been implemented, they have not worked. In the District of Columbia, we have the most stringent gun control laws in the country, and yet people are being killed every night.

What we have before us is a clearcut choice. If you are for gun control, you want to vote against the Stevens amendment. If you are for criminal control, you want to vote for the Stevens amendment.

I want to grab these criminals by the throat. I am not menaced by the fact the distinguished Senator from Alaska owns guns.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. GRAMM. I am menaced by the fact that people are killing people and not being put in jail.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. You have 1 minute, 37 seconds.

Mr. STEVENS. Mr. President, during the time I was preparing for this amendment I had discussions with the Department of Justice. One of them was with Judge Sessions, the Director of the FBI, concerning the availability of criminal history records and what could be done to develop a national system for instant check. I ask unanimous consent that his reply to me, dated May 17 of this year, appear in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, May 17, 1991.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: This letter is in response to your inquiry of April 23, 1991, and subsequent follow-up by your staff, concerning the availability of FBI criminal history records for screening firearms purchasers.

The FBI's current data base of 14.4 million automated criminal history records is available through the Interstate Identification Index to authorized law enforcement agencies for criminal justice purposes, including the screening of potential firearms purchasers. Since all inquiries for criminal justice purposes are processed the same way, there is no way to quantify the number of checks relative to firearm purchases that are being made today. It is the responsibility of the requesting agency to review the criminal history provided to determine the suitability of the purchaser, including contracting other law enforcement agencies for additional information on a particular arrest and/or its disposition.

As we previously discussed, the President's 1992 budget request for the FBI includes 487 positions and $12.5 million to begin a multiyear effort to eliminate the current backlogs of approximately 715,000 fingerprint cards and 2.3 million disposition reports that have accumulated within the Identification Division. These backlogs would be eliminated approximately 1½ years after the full personnel complement is brought on board and trained. In addition, these positions would enable us to begin converting to a completely automated form the 8.8 million criminal history records that are in the automated name index only. Once this is done, the FBI would have a data base including most young, active criminals. However, since the FBI's identification system is based on the voluntary submission of fingerprints by State and local agencies, there will still exist a number of records at the state and local level for which fingerprint cards have not been made available to the FBI. Those records are available and are being exchanged interstate for criminal justice purposes on a daily basis. This exchange is conducted primarily through the National Law Enforcement Telecommunications System.

The FBI's criminal records are used for numerous law enforcement and public safety reasons, such as employment screening for certain Federal agencies, child care providers, law officers, security traders, and others. Consequently, the FBI believes the inclusion of its manual records in its automated data base is critical not only to law enforcement investigations, but also to protecting the rights of applicants whose employment depends upon the accuracy of a criminal record check. Likewise, employers must be able to insure that a person not eligible for a position of trust is not mistakenly hired. The National Crime Information Center Advisory Policy Board, which is comprised of representatives of Federal, state, and local law enforcement and criminal justice agencies, has urged the FBI to proceed with the automation of the 8.8 million manual records to make the Interstate Identification Index more complete, accurate, and timely.

The automated name index of an additional 8.8 million manual criminal history records could be made available to law enforcement agencies through the Interstate Identification Index during the interim period. In order to make these criminal history records available after a remote inquiry, approximately 176 additional positions and $5.5 million would be required to perform the work on a reasonably timely basis. There are some legal considerations to making available the 8.8 million manual record name index and the associated manual records. These records are not updated to record current arrests, dispositions, or expungements until a copy of the arrest record is required for a user. Consequently, it is possible for a name to be in the index that should no longer be there. It is conceivable that a criminal justice agency may take a prejudicial action against an indexed individual before obtaining a full, up-to-date, arrest record. Such an action could expose the FBI to legal action by the wronged individual. These obstacles make the expeditious conversion of the records to an automated format the desired alternative since arrest and disposition information would be brought up to date as the record is placed on-line.

My associates are available at your convenience if you or your staff would like more details about our criminal history record processes and plans for the future.

Sincerely yours,

WILLIAM S. SESSIONS,
Director.

Mr. STEVENS. Mr. President, I again want to point out that I am sort of a flasher here going across the floor without my clothes. We had an amendment that I thought had a very strong position. The majority leader has kindly given me two-thirds of it all right, but two other restrictive provisions remain.

The waiting period is a concept, as the Senator from Utah has indicated, of the honest difference of opinion here on the Senate floor. We believe in the second amendment, and believe that we have the right to handguns, believe that the Brady amendment is just the

beginning of a long trend to try and do away with those rights that we possess and honor.

I urge those who want to make a statement—that what we want to do is ensure the people who are not under current law entitled to purchase guns will be forbidden from purchasing them, and to set up a national system based on State records and national records to have an instant check before a handgun is sold.

Let me just finish. I think my friend will let me go 30 seconds more.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator be yielded 2 minutes of our time.

Mr. STEVENS. I thank the Senator.

Every one of us have used a credit card. I tell you that the system that we envision is very similar to a credit card being checked as you go in to make a major purchase. The store owner just runs it through a direct line, dials in the direct line to the center, and it checks right through automatically.

The system we are talking about which we would finance through my amendment is just such a system. The local gun dealer will call in to the State agency, the State agency will check his card right straight through, punch in the name of the purchaser, and within minutes they will know if that person is entitled to purchase a gun.

What happens under Brady? You wait 7 days, and you use your best efforts to see whether or not the person is qualified. They are not really talking about eliminating those who are not qualified. They are talking about a cooling-off period and cooling-off periods just have not worked. Every State that has a cooling-off period has a higher level of homicides by guns than those who do not. The amendment of mine would put into effect a system that would work.

I thank the distinguished leader for allowing me to finish that statement. I thank those who have worked with me.

Above all, I want to say that as far as I am concerned many obnoxious portions of gun control in this bill have now been eliminated. There are still some others we will talk about later but at least some of the obnoxious are the ones we have eliminated.

Mr. BIDEN. I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have been a cosponsor of this legislation for the past 6 years. It works in my State of Rhode Island. We have a 7-day waiting period. So the question might logically be, if you have it why do you want to impose it on others? The trouble is these laws are a patchwork across the Nation. Our State is very small. If one wants to go elsewhere without a waiting period, it is very easy to do it. So it seems to me important to have a national law.

Right now criminals under the existing laws in most States only need lie. Under the existing Federal law, you can just lie. You fill out a form. You are a criminal? No, I am not. You can purchase a handgun.

The way this works so successfully in my State is it allows a period to do the checks as they have done in the 7-day period. It has worked very successfully.

I hope the Brady bill will be approved. Thank you.

Mr. BINGAMAN. Will the Senator from Delaware yield?

Mr. BIDEN. I am sorry to say I have no more time. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to share the story with my colleagues about the last year I was Governor of my State, I believe it was. We have a veterans' hospital called Fort Root. There are a lot of disturbed veterans there. One afternoon a veteran walked away from Fort Root and stole an automobile, drove about 70 or 80 miles north of Little Rock, and walked into a gun shop, small community, and bought a .357 magnum, no questions asked. About 1 hour later, he was in Harrison, AR, about 50 miles north, and about 5 minutes later he drove up to a motel, and 5 minutes after that there were six people dead.

If you had even a national instant check, and no waiting period, it would have still happened because you will not have had time to get his name into the computer if it were not already in there. If we had any waiting period at all, even 24 hours, at least those 6 people might still be alive.

Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, the debate about so-called gun control is a red herring when the real issue is crime control. Simply put, gun control does not translate into crime control.

When we enact a law for the protection of society, it must accomplish two things:

First, it must solve the perceived problem or show realistically that it will accomplish something to at least curb the problem;

And second, the people must have respect for the law, knowing it is in their best interest.

The fact is, Mr. President, criminals don't buy guns from legitimate sources. Criminals won't abide by it and won't be affected by any waiting period.

It is wishful thinking to assume that if guns are controlled, crime will be controlled. Restrictive gun laws do not and will never strike fear in the hearts of criminals. There is no deterrent to using a gun in a crime.

However, restrictive gun provisions do send a message to those law-abiding citizens who want to own a gun. It says the Government can't trust you. The Government has to hold you back.

This attitude does not enhance effective law enforcement. Solid law enforcement requires the support of the American citizen. Gun control creates a new category of suspects, and as such, undermines the trust law-abiding citizens have in their governments.

Those who live and work in this area know that Washington, DC, has a very high crime rate and is often referred to as the murder capital of the world. Well, the District of Columbia also has one of the toughest gun control laws in the country. But you can walk a dozen blocks from the Capitol and buy a gun. Unfortunately, gun control doesn't keep guns from the hands of criminals.

The phrase "people, not guns, kill" is much over-used. But it is a fact. We need to address ourselves to the "People," not the guns. That is, we need tough enforcement of existing laws, and we need to strengthen criminal penalties. We have to tighten procedural loopholes and stop giving convicted criminals unending rights of appeal.

These are the answers that will begin to solve our crime problem.

I have another concern, Mr. President, and it is that this 7-day waiting period represents just the beginning for gun control advocates. When the waiting period proves unsatisfactory, the next step may be to limit the right of our citizens to own guns.

I agree that keeping guns out of the hands of felons is important. But the issue is how to successfully do so without infringing on the rights of law-abiding citizens.

It is important to remember that laws are enacted to protect law-abiding citizens, not to punish them because of a criminal's choice of weapon. To do otherwise turns these citizens into innocent victims in our war against crime. That is the wrong approach.

Mr. President, there is no doubt that this is an emotional issue, but we here in Government must avoid reacting on an emotional basis. Yes, we have a serious crime problem. Let's try to solve it by toughening up our enforcement, imposing the right penalties, including the death penalty, and closing procedural loopholes which favor the criminal. Let's not penalize honest citizens by interfering with their right to defend themselves and to enjoy lawful gun ownership.

Mr. DURENBERGER. Mr. President, I have long been a supporter of the right of law-abiding American citizens to purchase and own firearms without needless and intrusive Government interference and regulation. Yet I recognize that in a society as diverse as ours, with violent crime escalating at an unprecedented level in many cities and towns throughout our country, there is a legitimate responsibility that Government has to prevent certain individuals from obtaining firearms.

The debate over the bill named after my dear friend Jim Brady is not about ends, but about the means of reaching

a commonly agreed end—namely how to prevent convicted felons, mental defectives, and other social misfits from obtaining firearms.

Mr. President, over the last several months the door to my office has been open to individuals representing every point of view on the Brady bill. Just last Monday, Jim and Sarah visited me to ask for my support. I've talked with handgun control, the police chief of Maplewood MN, and other law enforcement officials throughout my State, and State and national officials of the National Rifle Association.

I have not been able to walk down a street in St. Paul or Minneapolis without a citizen walking up to me and saying: "Senator, you should support the Brady bill." Even in small towns in rural Minnesota with one- and two-person police forces, I have been surprised at the broad public support for the Brady bill.

Unfortunately, the public sentiment favoring the Brady bill reflects less on the merits of the bill than on the public's frustration over the growing violent crime we face in large cities and small towns and the consequent burden on limited law enforcement resources.

Mr. President, I have heard every side of this debate and have concluded that on only one point does everyone agree. And that agreed-upon point is that this Nation needs a computerized uniform national criminal information network that will enable local law enforcement officials to instantly provide background checks on potential purchasers of handguns. The NRA supports this objective and the authors of the House and Senate versions of the Brady bill support that objective.

I think this point has been lost in all the public rhetoric surrounding this bill. Yet the fact is that under the Brady bill, the 7-day waiting period that has been the center of public controversy will sunset when an instant point-of-sale background check is implemented under the provisions of section 6213(a) of the Anti-Drug Abuse Act of 1988.

Mr. President, some of the people I have talked with favor a 7-day waiting period in addition to an instant criminal identification check system. They tell me we need a 7-day waiting period not only for background check purposes, but in order to provide a cooling-off period to prevent so-called crimes of passion.

Sarah Brady supports the idea of a 7-day cooling-off period, but she told me this week that she does not believe that we need such a permanent law at the national level. That is an issue that ought to be resolved at the State level where different community standards and values require distinctive rules.

In any event, Mr. President, we are not here tonight debating the need for a national cooling-off period. The Brady bill rejects that concept because it automatically sunsets the 7-day waiting period after implementation of the national instant-check system.

The real issue before us is whether during the interim between now and the implementation of an instant-check system, it would be an appropriate diversion of limited law enforcement resources to require a 7-day handgun waiting period that gives local law enforcement officials the opportunity to perform a background check on prospective purchasers of handguns. In order to resolve that issue, each of us should ask certain basic questions.

The first question is why do we need a national 7-day waiting period? This is not an area that necessarily lends itself to Federal preemption. Quite the contrary. This is an issue that States and localities are best equipped to address for there is not a town, city, or State that is immune from handgun violence. Community and State officials know far better than we in Congress how to deal with handgun violence.

If a 7-day waiting period really served to deter criminals from obtaining handguns is it not reasonable to assume that every local law enforcement agency in every State would be able to convince their State legislatures to adopt State handgun waiting periods?

But the fact is that only 26 of the 50 States have adopted waiting periods. Some as short as 2 days, others as long as 15 days. In my own State of Minnesota, the waiting period is 7 days. Yet, no one has proven to me that adoption of waiting periods has reduced the incidence of violent crime or diminished criminals' access to firearms. In a society as tainted with violence as ours, surely if it could be shown that a waiting period really deterred firearms access then I believe that New Hampshire, Texas, Ohio, Vermont, and the 20 other States without waiting periods would have long ago adopted them.

Mr. President, a 7-day waiting period does not prevent criminals from obtaining handguns because the vast majority of criminals do not need and use ordinary and legitimate commercial means to obtain weapons. It is an indisputable fact that five out of six criminals obtain their handguns illegally. They buy in the black market, they break into gun stores, they steal guns from the homes of law-abiding citizens. Or they purchase guns from individuals with no prior criminal records who have legally purchased handguns through licensed gun dealers.

Does anyone really believe that, if we have a 7-day national waiting period, convicted felons are going to walk into gun stores, present legitimate photo ID's, and then return in 7 days to try and pick up a gun? Of course not. What the convicted felon will do when he finds he cannot immediately purchase the handgun, is walk out of the store, obtain a gun on the black market, and never return to the licensed dealer.

Mr. President, proponents of waiting periods have often cited the fact that in California, which has a 15-day waiting period, more than 2,000 illegal gun purchases were prevented because of the waiting period. But what does that statistic tell us? Does it mean the 2,000 felons were denied access to a handgun because of the 15-day waiting period? Of course not.

What this statistic suggests to this Senator is that 2,000 felons walked into gun stores, and for one reason or another, were prevented from buying a particular gun because of the waiting period. And I believe that they were not deterred from obtaining handguns.

They simply diverted their purchase from the licensed gun dealer to the black market.

Or they sent a friend without a criminal record into the licensed dealer to buy the gun.

But there is another aspect of the California statistics worth considering. And that is the fact that 2,000 potential handgun sales represent about 1 percent of all handgun sales in the State of California.

Simply stated, California law enforcement officials spent millions of manhours doing background checks on approximately 198,000 law-abiding citizens who had no criminal records and were legitimately entitled to own a handgun.

Mr. President, that is simply a sheer waste of limited law enforcement resources; an unnecessary diversion of resources that will stretch the manpower needs of our largest cities and our smallest rural police forces.

And it is for this reason that I am compelled to oppose a 7-day waiting period before implementation of a national instant-check system. Last year, more than 2 million guns were sold through licensed gun dealers. If the California experience is a guide, mandating a 7-day waiting period will ensure that the police are going to spend their resources doing background checks on more than 1,980,000 law-abiding citizens. That is precious police manpower that is better used in walking the beat and cruising the streets tracking down criminals.

What I can support is a proposal that would provide additional funds to help States upgrade and computerize their criminal records systems and link in to a national computerized criminal information network.

Mr. President, criminal record-keeping in most States has not caught up with the late 20th century. No State is fully computerized yet, and at least three States have not even started using computers. It is imperative that we integrate and computerize the network of criminal histories so if a criminal is foolish enough to try to purchase a handgun through a licensed dealer,

he will be stopped on the spot. At the same time, the police will not have to waste millions of hours doing fruitless background checks on the overwhelming majority of law-abiding citizens who seek to purchase a handgun.

Finally, Mr. President, I want to issue a warning to the American people about the nature of this debate. Whether we adopt an instant-check system, a 7-day waiting period, or another form of gun control, we are not going to keep guns out of the hands of felons. We are not going to stop crime in the streets nor slow down the incidence of violent crime.

As one survey among convicted felons found: The vast majority of felons currently in prison—more than 80 percent—believe that gun control laws only affect honest citizens. And that same survey found that 88 percent of convicted felons believe that if a criminal wants a handgun, he will find the means to obtain one.

That is a sad commentary on our society. But unfortunately, I believe it is true. The underlying reasons for criminal activity are multifaceted. They have to do with economics, with education, with social standing, with a slowly crumbling family infrastructure.

All of us may feel good tonight because we have adopted a measure that purportedly will reduce handgun violence. But let us not deceive the American people. The measures being discussed, instant check and 7-day waiting period, are not even a bandaid on a society that is hemorrhaging from the aorta.

Mr. DANFORTH. Mr. President, I would like to direct a question to the distinguished chairman of the Judiciary Committee, the Senator from Delaware, concerning the applicability of the Brady 7-day waiting period to purchases of handguns in Missouri. Missouri law requires individuals to obtain a permit from the local county sheriff in order to receive transfer of a handgun or other concealable firearm. Missouri law further prohibits a sheriff from issuing a permit to persons who are under 21 years of age, convicted felons, fugitives from justice, dishonorably discharged from the Armed Forces, habitually intoxicated or drugged, or adjudged mentally incompetent. The Missouri law directs applicants for a permit to state in writing that they meet the requirements of the Missouri permit law and requires the sheriff, before issuing a permit, to make only such inquiries as he deems necessary into the accuracy of the statements made in the application. Finally, the Missouri statute states that a permit, once issued by a sheriff, is invalid after 30 days. Given these provisions of Missouri law, would handgun purchases in Missouri be exempt from the Brady 7-day waiting period?

Mr. BIDEN. Mr. President, if my colleague from Missouri would yield, it is my understanding and intention that Missouri would be exempt from the Brady 7-day waiting period. S. 1241 exempts handgun transfers from the 7-day waiting period if the law of the State in which the transfer occurs provides that a handgun transferee must have a permit to possess a handgun and that the permit is to be issued only after an authorized government official of the State has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law. Because Missouri law states that the sheriff shall issue a permit to acquire a concealable firearm only if the requirements of the Missouri permit law are met, the issuance of such a permit would itself be a verification that the information available to the sheriff does not indicate that possession of a handgun by the transferee would be in violation of law. Therefore, handgun purchases in Missouri would be exempt from the 7-day waiting period.

Mr. DANFORTH. Mr. President, I thank my distinguished colleague from Delaware, and I ask unanimous consent that a memorandum from Handgun Control and a letter from the deputy attorney general of Missouri, both expressing the view that Missouri would be exempt from the Brady 7-day waiting period, be included in the RECORD at this point.

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

To: Gail Hoffman, Legislative Director.
From: Dennis Henigan, General Counsel.
Date: June 25, 1991.
Re: Is Missouri Exempt from the Brady Bill's Waiting Period?

This memorandum addresses the legal issue of whether Missouri would qualify for one of the exemptions in the Brady Bill so that Missouri residents would not have to wait seven days period to each handgun purchase.

The answer is clear: Missouri is exempt.

A. PROVISIONS OF THE BRADY BILL

Title XXVII of S. 1241 contains the Brady Handgun Violence Prevention Act (hereinafter "the Brady Bill"). Although Senators Mitchell, Kohl and Gore wrote amendments which make the language of Title XXVII slightly different from H.R. 7 which passed the House of Representatives, the provisions for exempting states from the waiting period are identical in the two bills.

Section 2701(a)(u) provides a series of ways in which a handgun can be sold or transferred by a licensed firearms dealer. The 7-day waiting period in section (u)(1)(A) only applies where none of the other conditions in (u)(1) (B), (C), (D) or (E) are satisfied.

In the case of Missouri, handgun transfers will always be exempted pursuant to section (u)(1)(C), which provides an exemption from the waiting period when:

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than five years earlier by the State in which the transfer is to take place; and "(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

B. PROVISIONS OF MISSOURI LAW

Missouri Statutes, Section 571.080 requires individuals to have a permit to receive transfer of a handgun, called a "permit to acquire a concealable firearm." Pursuant to Section 571.080(2), the permit "shall only be valid for thirty days after the issuance thereof."

Section 571.090(1) forbids a sheriff from issuing a permit to persons who are underage, convicted felons, fugitives, dishonorably discharged, habitual drunks or drug users, or persons adjudged mentally incompetent. Section 571.090(2) directs applicants to swear that they meet the requirements of section (1) and Section 571.090(3) requires that "before a permit is issued, the sheriff shall make such inquiry as he deems necessary in the accuracy of the statements made in the application."

In short, every prerequisite of the Brady Bill, Section 2701(a)(u)(1)(C), is met by the Missouri statute: handgun purchasers are required to obtain a permit, such permit will always be issued within five years of the transfer (in fact, within 30 days), and state law requires the authorized official (the sheriff) to conduct a check.

C. ADDITIONAL LEGISLATIVE HISTORY

In addition to the plain meaning of the Brady Bill's language, there is legislative history which exempts Missouri from the waiting period.

During debate on the Brady Bill on the floor of the House of Representatives, two colloquies discussed this provision:

"Mr. UPTON. Mr. Chairman, on behalf of myself and the gentleman from Michigan who shares my concern on this issue, would handgun purchases in Michigan be exempt from operation of the Brady 7-day waiting period?"

"Mr. FEIGHAN. "Mr. Chairman, yes. H.R. 7 exempts handgun transfers if the law of the State provides that a handgun transferee must have a permit to purchase and the permit is issued after an authorized Government official has verified that the information available to that official does not indicate that possession by the transferee would violate the law. Because Michigan law prohibits the issuance by the police of a license to purchase a handgun to anyone prohibited by law from receiving such a gun, the issuance of such a license would itself be a verification that the transfer would not violate the law. Therefore, handgun purchases in Michigan would be exempt from the 7-day waiting period." Congressional Record, May 8, 1991, H 2836.

"Mr. VALENTINE. I have been advised, Mr. Chairman, by the Subcommittee on Crime and Criminal Justice that North Carolina, which has a comprehensive gun control measure in existence for many years, that the State would be exempt from the provisions of the Brady bill, if the Brady bill passes. I will ask the chairman of that subcommittee if he will respond to that, and yield to the gentleman from New York."

"Mr. SCHUMER. Mr. Chairman, I would say to the gentleman from North Carolina, he is entirely correct. North Carolina would be exempt from the Brady provisions under its

own law." Congressional Record, May 8, 1991, H 2842.

Both Michigan and North Carolina have permit laws similar to Missouri's. If anything, the Missouri law is drafted with such language as to be more surely exempt from the Brady Bill than *either* Michigan or North Carolina.

D. CONCLUSION

If the Brady Bill is enacted, handgun transfers in the State of Missouri will not be affected.

ATTORNEY GENERAL OF MISSOURI,
Jefferson City, June 3, 1991.

Hon. JOHN C. DANFORTH,
U.S. Senator, Russell Building, Washington, DC.

DEAR SENATOR DANFORTH: This letter is in response to your question asking whether Missouri's concealable firearm permit law would be included in an exemption in the proposed "Brady Handgun Violence Prevention Act," a copy of which proposed act you provided to us by letter dated May 29, 1991. We believe that it would be.

The Brady Bill contains certain exemptions to the provision that it is unlawful for any licensed importer, manufacturer or dealer to transfer a handgun to an individual who is not licensed under Section 923. Section 2(a)(1)(C) creates an exemption if the transferee presents a permit which allows him to possess a handgun, the permit was not issued more than five years earlier by the state in which the transfer is to take place, and:

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

In addition, subsection (D) provides an exemption where the law of the state:

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

Missouri's concealable firearm law, a copy of which is attached to this letter, is found in section 571.090, RSMo Supp. 1990. The law was most recently amended in 1989. Section 571.090.2, RSMo Supp. 1990, requires that application for a permit to acquire a concealable firearm shall be made to the sheriff of the county in which the applicant resides. An application must be filed in writing, signed and verified by the applicant, and must state the following information:

"* * * the name, social security number, occupation, age, height, color of eyes and hair, residence and businesss addresses of the applicant, the reason for desiring the permit, and whether the applicant complies with each of the requirements specified in subsection 1 of this section." Section 571.090.2, RSMo Supp. 1990.

Section 571.090.1 sets out the requirements to obtain a permit for a concealable firearm, and these are similar to the requirements set out in Section 2(a)(3) of the Brady Bill. Requirements under Missouri law include that the applicant is a citizen of the United States; has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year; is not a fugitive from justice or currently charged with the commission of a crime punishable by imprisonment for a term exceeding one year; has not been discharged under dishonorable conditions from the United States Armed Forces; is not publicly known to be habitually in an intoxicated or drugged condition; and is not currently adjudged mentally incompetent.

Section 571.090.3 provides for the sheriff to make inquiries before issuing a permit.

"3. Before a permit is issued, the sheriff shall make only such inquiries as he deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri operator's licen[s]e or other suitable identification. The sheriff shall issue the permit within a period not to exceed seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays. The sheriff may refuse to issue the permit if he determines that any of the requirements specified in subsection 1 of this section have not been met, or if he has reason to believe that the applicant has rendered a false statement regarding any of the provisions in subsection 1 of this section. If the application is approved, the sheriff shall issue a permit and a copy thereof to the applicant."

Because a Missouri concealable firearm permit will not be issued unless the sheriff has verified that possession of the weapon by the applicant would not violate the law, we believe that Missouri law is within the exemptions set out in the Brady Bill.

Very truly yours,

JAMES B. DEUTSCH,
Deputy Attorney General.

Mr. HARKIN. Mr. President, I am pleased to support the Brady bill provision in the crime bill drafted by Senators MITCHELL, KOHL, and GORE. The Mitchell compromise is unusual, as compromises go, because it actually strengthens the Brady bill as passed by the other body, while addressing the concerns of the Brady bill's opponents. I am a cosponsor of S. 257, the Brady Handgun Violence Prevention Act, which was introduced by Senator METZENBAUM.

I am deeply concerned about the increasing violence in the United States. Two-thirds of all homicides and suicides are attributed to firearms, according to recent statistics. Violent deaths in our major cities are increasing at an alarming rate. As shown in the recent Judiciary Committee majority report, rural States like Iowa are experiencing an even faster increase in violence than New York or Los Angeles. Action is needed now to reduce the violence on our Nation's streets, in rural as well as urban America.

Felons, fugitives, drug users or those with a mental illness are currently not permitted to own or be allowed to purchase handguns under Federal law. Yet many States have no system in place to enforce these laws and prevent these people from simply walking into a store and buying a gun in violation of Federal law. Without enforcement, these laws will have no effect on the incidence of violent crime. While my State of Iowa had an effective enforcement program under State laws, most States do not. The Mitchell compromise would help protect the people of my State from felons bringing into Iowa handguns purchased in States without enforcement programs.

For instance, when John Hinckley bought the gun he used in the attack on President Reagan in 1981, he gave a false address on the Federal form required to complete the purchase. If a background check had been carried out, the false address could have been detected, and Hinckley could have been denied the gun on that basis. As it was, Hinckley walked out of a Dallas pawnshop with a .22 caliber pistol, which he used to maim Jim Brady and Officer Thomas Delaney, and injure Secret Service Agent Tim McCarthy and President Reagan. Ronald Reagan and I disagree about many things, but the need for a background check and a waiting period is not one of them.

Major police organizations such as the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers support the Brady bill, because they know that it is a crime control measure that will support and protect police, not the criminal.

The Mitchell compromise would require States which do not have a waiting period to institute one, and provides incentives to institute a background check system, cleanup the criminal and court records, and prepare for the development of a national instant criminal background check system.

In my State and others which already have a background check, the Mitchell amendment will not expand the length of the waiting period. Those States which currently have a waiting period and background check will receive funds under the waiting period provision in the Violent Crime Control Act to help modernize criminal records and conduct the background check. I am proud to support the waiting period provisions in this bill, and urge my colleagues to do likewise.

Mr. SIMPSON. Mr. President, this is a most curious debate. From the very beginning, the proponents of this legislation, and its House companion, have tried to turn the issue of crime into an issue of gun control. That was deftly done, indeed.

We have an outright ban on so-called assault weapons. We lost that vote last year by a single vote. So now the folks who fear guns more than they do criminals went into a feeding frenzy—a waiting period here, magazine ban there, registration requirements, the whole works—as we say out west: "the 'whole shooting' match."

What would a waiting period do?

At best, 17 percent of the criminals using handguns obtained them across the counter. So we are going to make them get their guns on the street

where the other 83 percent of the violent criminals get them.

Now, that is brilliant.

But if you want to get those 17 percent, we are giving you a chance. You can get them and not impose a restriction whatsoever on the vast majority of law-abiding citizens—we are talking about a workable, instant check with strict timeframes for compliance and enough money to do that. The amendment I am pleased to cosponsor does just that.

So I congratulate the majority party for having the good sense to strike the waiting period—and to strike the Brady bill from this legislation—that was indeed wise. The Brady bill was not really effective. You all knew that. It was like putting a waiting period on the sale of automobiles after a drunk driver drives through an intersection and kills someone. It is about time we placed the responsibility for crime on the criminal and not on the tools of his trade.

It is possible to control some of criminals' access to firearms at legitimate gun shops—we can impose an instant check, and that is what this amendment will do.

There are millions of convicted felons out there; and Federal records are already updated to keep track of half of those, according to Justice Statistics—FBI. We can watch those.

This amendment will help the States get up to speed with the Federal system—this amendment will put in place a realistic system that can work.

This amendment will protect the right of every law-abiding citizen to have access to firearms—if they choose. This amendment stays true to the spirit of the second amendment—the right of the citizens to keep and bear arms shall not be infringed. This amendment does not infringe that right.

Look at the provisions this amended language would change. Not only was there a waiting period, but the underlying bill would have required registration of rifles—in a very subtle way: By requiring registration of clips and magazines.

Some of my colleagues may not know this, so I hope you will listen—or that your staff members are paying attention and they tell you. But each and evey clip that must be registered in the underlying bill is a unique piece of equipment—it fits only one kind of gun. You register the gun when you register the clip.

The police, then know who you are, where you live, what kind of gun you have and how much ammunition you have—all that from a tiny bit of legislative slight-of-hand. Look it up. That was in title 12, subtitle "C".

There were many more of those little gems hidden in there.

So I urge my colleagues to vote in favor of this amendment. Think of it as a vote in favor of the second amendment, if you wish. But I strongly urge adoption of this measure.

Mr. MITCHELL. Mr. President, let there be no confusion about what we are about to vote on. The Stevens amendment is the Staggers amendment, with window dressing. It mandates an instant check system by the States within the time period that the States obviously cannot comply with. It has no provision at all to give police the chance to make a background check.

By contrast, the waiting period in the bill is there for the single and compelling reason—that until an instant check system can be put into place, records cannot be checked instantly or even overnight. The amendment provides the penalty against the States if they do not have an instant check system in place and operating 24 months from the date of enactment. Everyone here knows that it is just not feasible to create such a system in 24 months when only 21 States now share their data with the FBI, when State records now average only 60 percent completeness, when several States do not even have their records on computer.

This amendment is obviously just an effort to get around a waiting period. That is the intention. That will be the effect if it is enacted.

The bill's provision which this amendment would strike are aimed purely and simply at finding an effective way to reach a goal that everyone in this debate claims is their goal—the goal of keeping handguns out of the hands of convicted felons.

Nobody in the whole country argues with that goal, and virtually everyone has come to realize that to achieve that goal we must take some action. Yet here we are with this amendment, a proposal for an instant, instant check. This is not a practical proposal designed to help achieve a common goal. It is an effort to defeat the waiting period provision in the bill.

Just as we saw in an earlier vote on this legislation, the other side has taken a large idea from the bill, in this case the proposal for funds for the States to improve their criminal records, repackaged it with an original faulty idea, and now attempt to sell it as a serious package. No Senator should be fooled.

Most of the penalties in this proposal are already in the bill. When you have in the bill the death penalty for someone convicted of killing someone with a firearm, how much more of a deterrent is it to add in this amendment life imprisonment for someone killing someone with a firearm. Are we going to imprison for life someone who has just been executed? Yet we are told we should vote for this amendment because it includes mandatory life imprisonment for an offense for which the bill already contains the death penalty.

Senators who want to strike a blow for safer streets, Senators who agree with more than 80 percent of the American people that felons should not be able to buy handguns, Senators who take the war against violent crime seriously, should not vote for this proposal.

There is only one serious anticrime vote to cast in these circumstances, and that is against this amendment and for the bill.

Mr. President, I yield the remainder of my time. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alaska.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—44

Baucus	Garn	Murkowski
Bond	Gorton	Nickles
Breaux	Gramm	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Rudman
Burns	Heflin	Seymour
Coats	Helms	Shelby
Cochran	Hollings	Simpson
Cohen	Johnston	Smith
Conrad	Kasten	Specter
Craig	Lott	Stevens
D'Amato	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Durenberger	McConnell	

NAYS—54

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Graham	Nunn
Boren	Harkin	Packwood
Bradley	Hatfield	Pell
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Kassebaum	Rockefeller
Chafee	Kennedy	Roth
Cranston	Kerrey	Sanford
Danforth	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Simon
Dixon	Leahy	Warner
Dodd	Levin	Wellstone
Exon	Lieberman	Wirth
Ford	Metzenbaum	Wofford

NOT VOTING—2

Bentsen	Pryor

So the amendment (No. 429) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this morning. The managers will remain to accept some amendments on which rollcall votes will not be required. The Senate will return to consideration of this bill at 10 a.m. tomorrow. I thank my colleagues for their patience and cooperation today. I yield the floor.

Mr. STEVENS. Will the Senator yield for just a moment?

Mr. MITCHELL. Yes.

Mr. STEVENS. Mr. President, I do want to thank the leadership for their courtesy in handling this vote. I would like to inquire, though, of the leader what the plan is as far as the remainder of the bill tomorrow.

Mr. MITCHELL. I have learned in the past few weeks, if not the past couple of years, not to be confident of my predictions about what will happen on pending measures. I can only say the managers intend to be here at 10 and will try to proceed as vigorously as possible. And during the day, in fact, early in the morning, I will be meeting with the distinguished Republican leader to consult on an effort to determine the best way to proceed to enable us to complete action at the earliest possible time with the least inconvenience to the Senators.

Mr. STEVENS. Mr. President, this Senator's understanding is that we will attempt now to find a list of those amendments that still are under consideration by Members and perhaps delineate those which might be finished tomorrow and those which we might hold over if we can get an agreement to deal with those. Is that the leader's intention?

Mr. MITCHELL. We are going to attempt to get a list of amendments and see what they entail and when we could complete action on them. That is certainly one possibility.

Mr. STEVENS. I thank the Senator.

Mr. MITCHELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, I rise today to express my thoughts on the pending crime bill. Changes in the Federal Criminal Code are desperately needed to assist Federal law enforcement's war on crime. Certain changes in the Federal Criminal Code are seriously needed and long overdue.

Next to an attack or invasion by a foreign power, no force so threatens the physical security and mental well-being of our Nation's citizens as the criminal element. Criminals today are better armed and more sadistically inclined than ever before in our Nation's history. In many of our cities, the criminal element has laid seige to our citizenry. People are afraid to leave their homes for fear of being assaulted or killed. Indeed, many cower in their own homes, having once been the victim of a violent crime, or knowing of a friend or relative who has been a victim of a violent crime. They can only hope and pray that they won't again be victimized by criminals.

Mr. President, a tougher Federal Criminal Code will help to curb the criminal threat to the Nation's citizenry. I regret we were unable to pass the President's crime bill last week. I thought the President had an excellent crime bill and I was sorry to see it voted down. I thought it was a good bill, and I voted for it. Most Americans would have liked to see that bill the law of the land. It is my hope that the Senate will not lose sight of what the American people want us to do here this week—that is, to pass a tough anticrime bill that speaks a language criminals readily can understand. We should resist efforts to encumber the legislation with provisions that would restrict the constitutional rights of law abiding citizens.

Senate consideration of the bill now before us offers us the opportunity to place on the Federal Criminal Code effective deterrent measures against crime. The bill provides for the death penalty for various Federal capital offenses, longer prison sentences, and an end to procedural technicalities that thwart justice. Criminals would be assured that their anti-social behavior would reap swift and sure punishment. The bill would help to dam the tide of crime which floods too many of our Nation's communities. Regrettably, the Senate refused to pass stronger language expanding the good-faith exceptions to the exclusionary rule. Fortunately, the Senate refused to adopt other measures that would have watered down the ability of the Federal Government to impose the death penalty on drug kingpins and substituted life imprisonment for the death penalty in Federal capital crimes.

Earlier this year, the United States achieved a swift and stunning victory over forces threatening international peace. This success was facilitated by the congressional authorization given the President to act on behalf of the American people to defeat a foreign menace. We would have our Federal law enforcement officers—who are soldiers in the Nation's war on crime—a similar mandate to defeat the criminals terrorizing our neighborhoods and diminishing the quality of life in our Nation.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1401 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

LITHUANIA

Mr. PRESSLER. Mr. President, the protection of human rights is an international responsibility. These rights must be guarded vigorously. As the leading upholder of democratic ideals in the world, the United States shoulders a major role in human rights issues. Ironically, the concern for human rights has found expression even in the relations between two balloon associations, in America and in Lithuania. Who could have imagined, several years ago, that Lithuanian and American balloonists would reach across the miles to find common ground?

I was prompted to speak on this issue by a particularly heartrending letter I recently received. It was sent to me by the internationally renowned Soukup and Thomas Balloon Museum in Tyndall, SD. The letter was written by Violetta, a Lithuanian woman who described the terrible events which took place in the Lithuanian city of Vilnius on January 13, 1991. As chairman of the Lithuanian Balloon Association, she met Mr. Jacques Soukup and Mr. Kirk Thomas at a balloon rally in Vilnius in the fall of 1989. When I spoke with Jacques Soukup and Kirk Thomas about their experiences in Lithuania, they stressed the breathtaking beauty of that country, the warmth and generosity of the people there, and the fervent democratic aspirations of the Lithuanian people.

After the rally, the two South Dakotans invited Violetta to visit them at a balloon fiesta which was to be held in South Dakota. Her balloon was the first Soviet balloon ever to enter the United States. Thus, a connection was made between the balloonists and cross-cultural ties were established. Consequently, Violetta turned to these two men to share her grief over the events of January 13. She described the frustration and desperation she and her fellow Lithuanians felt in their struggle for independence and freedom from Soviet repression. Violetta's plea was heard in South Dakota, and I am grateful to Jacques Soukup and Kirk Thomas for sharing her letter with me.

Mr. President, we were all horrified to see the bloody pictures depicting the terrible events of January 13, 1991. Soviet soldiers mercilessly beat and killed innocent civilians. Soviet troops opened fire on innocent civilians in Vilnius, killing at least 14 and wounding over 100. Then on January 20 in Latvia, Soviet Black Beret special forces attacked the headquarters of the Latvian Interior Ministry in Riga, leaving 4 dead and at least 11 injured. Those actions "offend America's deep-

est values," as Dr. Henry Kissinger was quoted in the Washington Post of January 22. We cannot remain silent when Soviet forces treat so brutally human beings who are struggling for freedom and the realization of democratic values in which we believe so strongly. These actions contradict Soviet progress on human rights. I hope they do not signify a reversal of that progress. The Soviet Union must establish its legitimacy to the rest of the world in human rights.

Those who have been watching and encouraging President Gorbachev must be sure not to lose sight of what is occurring in the smaller Soviet republics, such as the Baltic States and Moldova. The use of brute force against people who peaceably seek democracy and independence is unacceptable. At the very least, we must make the Soviets aware that we do not approve of their repressive tactics and that continued use of such tactics creates serious obstacles to further improvement of United States-Soviet relations. The Soviets seek better relations with us. However, that is not possible so long as they abuse basic human rights. The Soviets stand at a threshold. They must make a decision whether to continue their current policies of aggression and repression, or to move toward genuine democratization, which means allowing freely elected governments to follow their chosen paths. A choice must be made.

Mr. President, I sincerely hope that Violetta and her fellow Lithuanians achieve the freedom they desire. All three of the Baltic States deserve governments and a way of life of their own choosing.

I ask unanimous consent that the letter from Violetta appear in the RECORD.

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

DEAR KIRK: I hope you have heard about the events in Lithuania and as you have been here you can understand our determination to be free and independent perfectly well. Almost for the whole month I have not written any letters as I could not take a pen and a sheet of paper to do it. My heart was aching, my mind was empty of any words except of sorrow and sympathy for the dead. Among them there are two students from our university. Examinations have been postponed and our students kept vigil in Vilnius. The nightmare started on the 11 January when Soviet commandoes stormed the Press House and the first Lithuanian was wounded in the face with the hollow nose bullet; on entering the body it tears it to pieces. After that people went to Vilnius to keep vigil there. My mother was there on the 13 of January but thank God she was at the Houses of Parliament at that crucial moment when the Soviet commandoes stormed the TV tower and radio committee in the early morning hours. She and the rest of thousands of people heard the shooting, explosions, and knelt and prayed as nothing could be done. There were lots of children and women at the Parliament, they were asked to leave the place by the MP's but nobody moved. The tanks came, stopped, searched the crowd with powerful, blinding lights but did not attack. They did not expect such determination of the Lithuanians. What concerns me, I almost went mad during that night. I did not sleep and eat for several days. That fatal night I watched TV, I saw the announcer with wide opened and horrified eyes, heard the shooting and swearing in Russian on TV, then they turned secret TV cameras on and we saw the Soviet soldiers kicking and beating people in the corridors of the TV tower. Then everything went dark and silent. At the same time the radio transmission died and I heard the last words "we are still alive" were heard. And then the church bells began to toll and the sirens were turned on and it is difficult to describe what I felt. I went trembling, my hands and feet were icy, I was on the verge of a nervous breakdown. Everybody came to the town municipality to hear the news, there we learnt that the Parliament was functioning. Thank God there was a new TV station opened in Kaunas and it is the only one after almost the whole month. The Soviet soldiers still occupy the buildings they attacked on the 13 of January.

Gorbachev went too far. He decided to teach those "naughty" Lithuanians and now like Pontius Pilate is washing his hands openly. The impudent Russian democrats ask him what these red spots on his Novel dinner jacket mean. Those are the spots of the bloodshed, of 580 people injured/impaired hearing because of the explosive grenades, mass legs under the armed cars, mounds of bullets and shells, and 15 people killed. The last one was shot only several days ago in the head by the soldiers. Though Gorbachev says that the troops have been withdrawn from Lithuania, that is a complete lie as everything else he says. The curfew exists in Vilnius and now the martial law is being imposed though it is illegal from both the Lithuanian and Soviet constitutions' point of view. We live under a great nervous tension that is being imposed by the Soviet Army and the Communists.

What is this and why is this? Who can we rely on? Who will understand? Who will hear our cry? Iceland was the first to hear but its mouth was shut by the Kremlin. Well, who will help us in our uneven struggle with the red dragon? We have been receiving only moral sympathy and help which helps Gorbachev to do whatever he likes in Lithuania and other Baltic states. We are left all alone. But God gives us strong determination and endurance. We have got our land, our language, our history and culture. We have got a strong desire to be free and independent. We have got wisdom and prayers to God. When the tanks were approaching the Houses of Parliament, thousands of people who were there knelt and prayed though they had been asked to leave the place. None moved while the tanks with their strong lights searched the crowds. I hope we shall survive.

I am sorry my letter is very emotional but I cannot do otherwise. I want everybody to know how things are going on here.

Hope to hear from you. Now I shall sign off.

Sincerely yours,

VIOLETTA.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The senior Senator from West Virginia [Mr. BYRD].

AMENDMENT NO. 431

(Purpose: To authorize grants to assist the states in participating in the system developed under section 6213(a) of the Anti-Drug Abuse Act of 1988)

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

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 431.

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

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

The amendment is as follows:

At the appropriate place, insert:

SEC. . IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

Mr. BYRD. Mr. President, the transient nature of criminals, combined with their use of aliases and false identification, necessitates a national system that can positively identify criminals and match those identifications with accurate criminal history records. Right now a convicted felon could walk into a gun store, present false identification, and walk out with a gun. A gun dealer has no way of knowing whether Joe Smith is indeed Joe Smith. He has no way of knowing whether Joe Smith is an honest, decent man, or whether he is a convicted criminal.

The easiest and most accurate method currently available for positive identification is fingerprinting. Fingerprints are cheap, easy to obtain, and difficult to alter. The only problem with fingerprints is that they are taken on cards—pieces of paper—and in most areas, are not transferred onto computer files.

The Federal Bureau of Investigation is undertaking a great effort, with my support, to revitalize its fingerprint identification division so that a national computerized positive identification system can readily be developed before the end of this decade.

The amendment I have sent to the desk would clarify section 2703 of the bill to make it clear that the development of the State criminal history

records systems should be done in conjunction with the revitalization of the fingerprint identification division of the Federal Bureau of Investigation [FBI]. It is my understanding that this amendment has been cleared by both managers.

Language already in the bill requires that, in order to be eligible for grants to assist in the developing or expansion of State criminal history records, the State must participate in the Interstate Identification Index [III]. This system is already a part of the FBI's identification division. Currently 22 States contribute criminal history and arrest information to the Triple-I. By participating in the Triple-I, States are assured that when the technology becomes available, their computerized criminal record systems will be compatible with the FBI's fingerprint identification system. The FBI will computerize its fingerprint files and then link them to computerized criminal record files. States then can tie into this system. But to ensure that there is no doubt about the intent of the language in the bill, my amendment will clarify that States developing or expanding their computerized criminal history files should do so in a manner that is compatible with the planned fingerprint identification system of the FBI.

Mr. President, I understand the managers have cleared this amendment and I hope it can be adopted.

Mr. BIDEN. Mr. President, that is correct. The managers have cleared it on both sides and we think it is a valuable addition. We are happy to accept the amendment.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment.

So the amendment (No. 431) was agreed to.

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

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

The motion to lay that motion on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware, the manager of the bill. And I thank the Republican manager, also.

AMENDMENT NO. 432

(Purpose: To give preference in the making of grants for the establishment of computerized criminal history records to those States that do not yet have such systems in place)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 432.

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

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

The amendment is as follows:

Section 2703, on page 245, line 11, strike "General" and insert: "General, with preference given to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files".

Mr. BYRD. Mr. President, undertaking the development and expansion of a national data system, with all States participating is going to require a major commitment of resources, particularly by the States. S. 1241 recognizes that need by authorizing $40 million in grants to the States to assist in the development of their computerized criminal history files. The bill provides that 50 percent of these funds will be allocated to the States based upon population. The remaining 50 percent will be distributed at the discretion of the Attorney General.

I am somewhat concerned about this method of distribution. Currently, there are three States—Maine, Mississippi, and West Virginia—that have no computerized criminal history systems in place. Nor are these States among the Nation's most populous. Should not those States which have yet to begin computerizing their criminal history files, receive priority for funding, so that they too can be ready by 1995? This amendment would simply require that the 50 percent of the funds to be distributed at the discretion of the Attorney General should be allocated with preference given to those States that have the lowest percent currency of case disposition in computerized criminal history records systems.

Except for these three States, all of the other States currently have some sort of computerized system of criminal history records in place. These systems can be expanded as the States develop automated criminal history files in conjunction with the FBI's system. The startup costs, however, for the three States that currently have no computerized system will be vastly greater than for those States that have some sort of computerized system already in place. These three States not only deserve some assistance in bearing the costs of this new Federal system, they deserve, I believe, and I hope others will agree, the highest priority for Federal funding.

I understand that this amendment has been agreed to by both managers of the bill.

Mr. BIDEN. Mr. President, that is correct. The manager on this side, as well as the Republican manager, have agreed to the amendment and also think it is valuable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 432) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill, Mr. BIDEN, and the ranking member for their courtesy, cooperation, and support.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 208; Calendar No. 209; and the following nominations reported today by the Committees on Finance, Governmental Affairs, and Judiciary: Desiree Tucker-Sorini; Warren Roger King; Wendell P. Gardner, Jr.; Harvey E. Schlesinger; Ralph W. Nimmons, Jr.; Sterling Johnson, Jr.; Jane R. Roth; John H. Robinson; and Robert T. Guiney.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed, en bloc, are as follows:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997. (Reappointment).

DEPARTMENT OF LABOR

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

The following nominations reported today by the Committees on Finance, Governmental Affairs, and Judiciary:

Desiree Tucker-Sorini, to be an Assistant Secretary of the Treasury;

Warren Roger King, to be an Associate Judge;

Wendell P. Gardner, Jr., to be an Associate Judge;

Harvey E. Schlesinger, to be U.S. District Judge;

Ralph W. Nimmons, Jr., to be a U.S. District Judge;

Sterling Johnson, Jr., to be U.S. District Judge;

Jane R. Roth, to be U.S. Circuit Judge;

John H. Robinson, to be U.S. Marshal; and

Robert T. Guiney, to be U.S. Marshal.

STATEMENT ON THE NOMINATION OF RALPH W. NIMMONS, JR. AND HARVEY E. SCHLESINGER

Mr. MACK. Mr. President, it is with great pleasure that I introduce to the Senate the Honorables Ralph W. Nimmons, Jr., and Harvey Schlesinger, nominees for the U.S. District Court in the Middle District of Florida.

First, I thank the Senate Judiciary Committee for moving expeditiously on these two nominations. Florida presently has 10 district court vacancies, which equates to approximately one-third of the Florida bench. Obviously, this has resulted in a tremendous burden on the judges in our three Federal districts. Acting on these nominations as expeditiously as possible will help to remedy the unique situation Florida is presently facing.

I would now like to take a few moments to express my unqualified support for both of these outstanding jurists. As many of you may be aware, I established a Judicial Advisory Commission to make recommendations to me for district court openings in my State. The Commission highly recommended to me Harvey Schlesinger and Buddy Nimmons for my consideration. Recently, I had the opportunity to sit down with both of these gentlemen and to talk with them about their desires to become Federal judges. I found Judge Nimmons and Magistrate Schlesinger to be extremely qualified and competent individuals.

Furthermore, I have received numerous letters and phone calls from individuals in my State highly praising both of these gentlemen. Phrases such as "a man of high ideals," "a judge who renders fair and just decisions," "an active participant in his community," and a "family man" are common themes which run through these letters and conversations.

Buddy Nimmons presently serves as a judge on the First District Court of Appeals in Florida, where he enjoys an excellent reputation in his community and is highly regarded by the local bar. Prior to this position, Judge Nimmons served as a circuit judge and as a State attorney, where he was chief of the special prosecution division. Judge Nimmons served as chief assistant general counsel for the city of Jacksonville and was in private practice prior to that time.

As a founding member of the Jacksonville Wolfson Children's Hospital and its former of that entity, Nimmons dedicated a great deal of his time off the bench to the community. Judge Nimmons has also been extremely active with the First Baptist Church, where he served as chairman of the board of deacons. In addition, Judge Nimmons has played an important role in the Fellowship of Christian athletes.

Judge Nimmons has previously been the recipient of the Outstanding Member of the Judiciary in Jacksonville as well as the Outstanding Judge in Duval County. It is evident that Judge Nimmons is extremely well-qualified to fill this judgeship.

Harvey Schlesinger serves as a U.S. Magistrate in the U.S. District Court, Middle District of Florida. Previously, Magistrate Schlesinger served as a chief assistant to the U.S. Attorney in the Middle District. Magistrate Schlesinger served on the judge advocate general staff in the United States Army.

Aside from being a jurist, Magistrate Schlesinger is also an educator. From the time he passed the bar, Magistrate Schlesinger has taught administrative law, trial advocacy, criminal law, legal philosophy, jurisprudence, and constitutional law. In addition to serving as a professor of law, Magistrate Schlesinger has also served many years as a member of the Supreme Court's 10-member advisory committee on Federal Rules of Criminal Procedure, being nominated by Chief Justice Warren Burger and later renominated by Chief Justice William Rehnquist.

In addition to being a dedicated public servant, Magistrate Schlesinger has also been extremely active in his community. He served as director of the Pine Castle Center for the Mentally Retarded for over 15 years and held the positions of president and chairman of the board. Magistrate Schlesinger also has been involved in Rotary International of South Jacksonville and has served in an advisory role for Boy Scouts of America. Another of Magistrate Schlesinger's commitments include being active on the National Conference of Christians and Jews, serving both on its board of trustees and as a former chairman of the board of governors.

The American Bar Association recently bestowed Magistrate Schlesinger with the honor of being the Nation's most outstanding judge of courts of limited jurisdiction. Obviously, Magistrate Schlesinger is well-qualified to fill this judgeship.

I trust each of my colleagues will examine the outstanding judicial records of both Harvey Schlesinger and Buddy Nimmons. I believe that both of these jurists are eminently qualified to be district court judges. I urge my colleagues to vote favorably on their nominations.

Thank you, Mr. President.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, 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

ENROLLED JOINT RESOLUTION SIGNED

At 1:34 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month".

The enrolled joint resolution was signed by the President pro tempore (Mr. BYRD).

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 26, 1991, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jane R. Roth, of Delaware, to be United State Circuit Judge for the Third Circuit;

Sterling Johnson, Jr., of New York, to be United States District Judge for the Eastern District of New York;

Harvey E. Schlesinger, of Florida, to be United States District Judge for the Middle District of Florida;

Ralph W. Nimmons, Jr., of Florida, to be United States District Judge for the Middle District of Florida;

Robert T. Guiney, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of four years; and

John H. Robinson, of Nevada, to be United States Marshal for the District of Nevada.

By Mr. GLENN, from the Committee on Governmental Affairs:

Wendell P. Gardner, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years; and

Warren Roger King, of the District of Columbia, to be an Associate Judge of the Dis-

trict of Columbia Court of Appeals for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BENTSEN, from the Committee on Finance:

Desiree Tocker-Sorini, of Colorado, to be an Assistant Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

The following named persons to be Members of the Peace Corps National Advisory Council for the terms indicated:

John J. McCarthy, of California, for a term expiring October 6, 1992, vice John Bigelow;

Craig R. Stapleton, of Connecticut, for a term expiring October 6, 1991, vice Creighton E. Mershon, Sr;

Myron A. Wick, III, of California, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6 1992;

Tom G. Kessinger, of Pennsylvania, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1991;

Niara Sudarkasa, of Pennsylvania, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1991;

Lane Kirkland, of the District of Columbia, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1993;

John E. Bennett, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John E. Bennett.

Post: Malabo, Republic of Equatorial Guinea.

Contributions, amount, date, and donee:

1. Self, John E. Bennett, none.

2. Spouse, Barbara W. Bennett, none.

3. Children and Spouses: Ian S. Bennett, Seth H. Bennett, none.

4. Parents, Charles H. and Margaret G. Bennett, none.

5. Grandparents, deceased, N/A.

6. Brothers and Spouses, C. Stuart Bennett, none.

7. Sisters and Spouses, Margaret E. and Guy S. Stoner, none; Lee Ann and Mel Martinez, none; and Carol J. and John Zukerman, none.

Mary Ann Casey, of Colorado, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mary Ann (NMI) Casey.

Post: U.S. Ambassador to Algeria.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, (I am single), n/a.

3. Children and Spouses: n/a.

4. Parents, Frank J. Casey, deceased, Anna V. Casey, none.

5. Grandparents, my last surviving grandparent died in 1962.

6. Brothers and Spouses, Michael J. Casey (single), none. Frank J. Casey (single), none.

7. Sisters and Spouses, no sisters.

William Harrison Courtney, of West Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as U.S. Commissioner for the Bilateral Consultative Commission and the Joint Consultative Commission established by the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William H. Courtney.

Post: Ambassador while serving as U.S. Commissioner for two Nuclear Testing Treaties.

Contributions, amount, date, and donee:

1. Self, $50.00, June 1990, Republic National Committee.

2. Spouse, none.

3. Children and Spouses, William H. Courtney, Jr., and Mary Alison Courtney, none.

4. Parents, Mary Lee Fleming, Father deceased, none.

5. Grandparents, All deceased.

6. Brothers and Spouses, No brothers.

7. Sisters and Spouses, Mary Vincent Courtney Collins, none. David Collins, none.

John Thomas McCarthy, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John T. McCarthy.

Post: Tunisia.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, John T. McCarthy III, Elizabeth McCarthy, Julia McCarthy, none.

4. Parents, John T. McCarthy Sr. (deceased); Elizabeth McCarthy, none.

5. Grandparents, (all deceased) Timothy and Mary McCarthy; Mr. and Mrs. Kaffenburger (last one died in 1950).

6. Brothers and spouses, brother Thomas E. McCarthy (wife is named Catherine); Joan (sister) and Edward Byrnes; Margaret (sister) and William Cannon, none.

7. Sisters and spouses, see above, none.

Nicholas Platt, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children Adam, none; Oliver, $100, July 1988, Ruth Messenger, Manhattan Borough Counsellor; Nicholas, Jr., $100, September 1990, Harvey Gantt.

4. Parents, Geoffrey Platt (deceased). Helen Choate Platt (deceased).

5. Grandparents, Joseph H. Choate, Jr. (deceased); Cora O. Choate (deceased); Charles A. Platt (deceased); Eleanor Hardy Platt (deceased).

6. Brothers and spouses, Geoffrey Platt, Jr., $100, September 1988, Rep. Sidney Yates, $100, November 1989, Rep. Sidney Yates, $130, December 1989, Rep. Sidney Yates, $100, June 1990, Sen. Claiborne Pell, $50, September 1990, Harvey Gantt; Hope Forsyth Platt, $35, September 1990, Harvey Gantt.

7. Sisters and spouses, Penelope Platt Littell (deceased); Walter D. Littell, none.

Gordon S. Brown, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Gordon S. Brown.

Post: Ambassador to Mauritania.

Nominated: Dec. 21, 1990.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Helen B. Lombardi, $25, 1990, Diane Feinstein.

5. Grandparents, none.

6. Brothers and spouses, none.

7. Sisters and spouses, Ronny B. Baxter, $50, annually, Republican Party.

Robert H. Pelletreau, Jr., of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Pelletreau, Robert H., Jr.

Post: Ambassador to Egypt.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, $100, September 29, 1989, Groark for Lt. Governor.

3. Children and spouses, none.

4. Parents, Robert Pellectreau, $35, 1/5/87, Republican National Committee; $15, 2/7/87, New York Republican State Committee; $25, 5/15/87, George Bush for President; $35, 1/2/88, Republican National Committee; $30, 1/8/88, New York Republican State Committee; $35, 1/15/88, Republication National Committee; $25, 2/22/88, George Bush for President; $25, 9/27/88, 1988 Presidential Fund; $52, 1/7/89, Republican National Committee; $30, 1/20/89, New York Republican Committee; $52, 7/6/90, Republican National Committee; $25, 7/17/90, National Republican Congressional Commit-

tee; $5, 7/19/90, National Republican Senatorial Committee; $441, total. Mary Pelletreau, none.

5. Grandparents, deceased.

6. Brothers and spouses, Richard Pelletreau, none.

7. Sisters and spouses, Susan Pelletreau, none. Anne P. and Robert Woodbury, $50, 2/28/87, Mitchell for U.S. Senate; $100, 3/15/87, Democratic State Committee; $25, 12/12/87, Brennan for Congress; $125, 12/12/87, Maine Democratic Party; $25, 2/20/88, Dukakis for President; $52, 12/18/88, Maine Democratic Party; $175, 7/15/89, Maine Democratic Party; $552, total.

J. Stapleton Roy, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: J. Stapleton Roy.

Post: Ambassador to People's Republic of China.

Contributions, amount, date, donee.

1. Self, J. Stapleton Roy, none.

2. Spouse, Elissandra Roy, none.

3. Children and spouses, Andrew, none, David, none, Anthony, none.

4. Parents Andrew T. Roy $15, 12/23/87, Lautenberg Committee; $15, 12/23/87, Democratic National Committee; $15, 12/31/87, Democratic Congressional Campaign Committee; $20, 04/24/88, Democratic Senate Campaign Committee; $10, 04/26/88, Lautenberg Committee; $15, 10/16/88, Moynihan Committee; $15, 12/19/88, Democratic Congressional Campaign Committee; $15, 12/31/89, Democratic National Committee; $20, 12/31/89, Democratic Senate Campaign Committee; $15, 12/31/89, Democratic Congressional Campaign Committee. Margaret C. Roy, none.

5. Grandparents (deceased), none.

6. Brothers and spouses: David T. Roy, Barbara Roy, $90, 7/1/90–11/2/90 (by installments), Simon for Senate Committee.

7. Sisters and spouses, N/A.

Johnnie Carson, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Johnnie Carson.

Post: American Embassy Kampala, Uganda.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Anne Diemer Carson, none.

3. Children and spouses, Elizabeth, Michael, Katherine, none.

4. Parents, Dupree and Aretha Carson, none.

5. Grandparents, (Deceased).

6. Brothers and spouses, Ronald Carson, none; Arthur Carson, divorced, none.

7. Sisters and spouses, Barbara and Earl Dorsey, none.

Lynn Marvin Hansen, of Colorado, for the rank of Ambassador during his tenure of service as U.S. Representative on the Conventional Armed Forces in Europe (CFE) Joint Consultative Group and to the Negotiations on Conventional Armed Forces in Europe (CFE).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Lynn Marvin Hansen.

Post: Negotiations on Conventional Armed Forces in Europe (CFE), Vienna.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Faith D. Hansen, none.

3. Children and spouses, Kurt Hansen (Rebecca), none; Heidi Jex (Frank), none; Erik Hansen (Susan), none; Kevin Hansen, none; Kirsten Allen (Brad), none; Mark Hansen, none; and Wade Hansen, none.

4. Parents, LeRoy M. Hansen (deceased), none; and Amy Hansen, none.

5. Brothers and spouses, Maurice Hansen (Hilde) none; and Wayne Hansen (Alain), none.

6. Sisters and spouses, Eula Baldwin (Larry), none.

Jane E. Becker, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee *Jane E. Becker.*

Post *U.S. Mission, Vienna, Austria.*

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, N/A.

3. Children and spouses N/A.

4. Parents, Donald J. and Lucille M. (Fessnech) Becker, none.

5. Grandparents, all deceased prior to January 1, 1985.

6. Brothers and spouses, Robert O. and Irene M. (Tsoris) Becker, none.

7. Sisters and spouses, N/A.

Richard W. Carlson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

(Contributions are to be reported for the period begining on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard W. Carlson.

Post: Ambassador to the Seychelles.

Contributions, amount, date, and donee:

1–2. Self, Richard W. Carlson, and spouse, Patricia S. Carlson.

R.W. Carlson, $1,000, 10/8/87, George Bush for Pres.

P.S. Carlson, $1,000, 10/8/87, George Bush for Pres.

R.W. Carlson, $100, 10/8/88, D. Rohrabacher for Cong.

P.S. Carlson, $100, 10/8/88, D. Rohrabacher for Cong.

R.W. Carlson, $300, 4/1/88, D. Rohrabacher for Cong.

R.W. Carlson, $100, 3/10/88, Chris Cox for Cong.

R.W. Carlson, $1,000, 7/4/88, Pres. Trust/G. Bush.

P.S. Carlson, $1,000, 7/4/88, Pres. Trust/G. Bush.

R.W. Carlson, $200, 9/8/88, D. Rohrabacher for Cong.

R.W. Carlson, $1,000, 4/7/88, George Bush for Pres.

P.S. Carlson, $1,000, 4/7/88, George Bush for Pres.

R.W. Carlson, $100, 5/1/88, Chris Cox for Cong.

R.W. Carlson, $500, 4/12/89, Pete Wilson/Governor.

P.S. Carlson, $500, 4/12/89, Pete Wilson for Governor.

R.W. Carlson, $500, 4/12/89, Lowery for Cong.

P.S. Carlson, $500, 4/12/89, Lowery for Cong.

R.W. Carlson, $100, 7/27/90, Hunter for Cong.

R.W. Carlson, $250, 9/9/90, D. Rohrabacher for Cong.

R.W. Carlson, $150, 9/12/90, D. Rohrabacher for Cong.

P.S. Carlson, $150, 9/12/90, D. Rohrabacher for Cong.

R.W. Carlson, $200, 10/1/90, D. Cunningham for Cong.

R.W. Carlson, $200, 5/28/90, Lowery for Cong.

R.W. Carlson, $500, 6/21/90, P. Wilson for Gov.

P.S. Carlson, $500, 6/21/90, P. Wilson for Gov.

3. Children and spouses, Tucker Carlson/Buckley Carlson—no donations.

4. Parents, W.E. Carlson (deceased 1953); Ruth M. Carlson (deceased 1967).

5. Grandparents, deceased (all deceased before 1950).

6. Brothers and spouses, none.

7. Sisters and spouses, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORD of June 24, 1991, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

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. MITCHELL (for himself, Mr. SASSER, Mr. BOREN, Mr. PELL, Mr. BIDEN, Mr. SARBANES, and Mr. CRANSTON):

S. 1399. A bill to establish a program to provide Soviet graduate students with scholarships for study in the United States; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRAMM, Mr. SYMMS, Mr. WALLOP, Mr. KASTEN, Mr. NICKLES, and Mr. CRAIG):

S. 1400. A bill to provide for a study of the General Accounting Office by a Special Inspector General, and for other purposes; to the Committee on the Budget and the Com-

mittee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days to report or be discharged.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1401. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. ADAMS (for himself, Mr. REID, Mr. BRYAN, Mr. METZENBAUM, Mr. CRANSTON, Mr. DASCHLE, Mr. WIRTH, Mr. SANFORD, Mr. LIEBERMAN, Mr. HATFIELD, Mr. HARKIN, and Mr. KENNEDY):

S. 1402. A bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes; to the Committee on Armed Services.

By Mr. BURNS:

S. 1403. A bill for the relief of Ron Buxbaum; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1404. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. HOLLINGS):

S. 1405. A bill to authorize appropriations for certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes;to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. BRYAN, Mr. D'AMATO, Mr. DECONCINI, Mr. BIDEN, Mr. BURNS, and Mr. PACKWOOD):

S. 1406. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in these chemicals, and for other purposes; to the Committee on the Judiciary.

By Mr. DANFORTH:

S. 1407. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1408. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1409. A bill to provide for damages in cases of international employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 1410. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 1411. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for families, to establish child support assurance demonstration projects, to establish a National Commission on Family Strengths, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (by request):

S. 1412. A bill to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. CRANSTON and Mr. WELLSTONE):

S. 1413. A bill to encourage the termination of human rights abuses inside the People's Republic of China and Tibet; to the Committee on Foreign Relations.

By Mr. AKAKA:

S. 1414. A bill to establish a higher education loan demonstration program in 10 congressional districts in which the amount of a student's loan repayment is dependent upon such student's income, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL:

S. 1415. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on Rules and Administration.

S. 1416. A bill to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services; to the Committee on Rules and Administration.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. GORTON, and Mr. DECONCINI):

S. 1417. A bill to amend chapter 111 of title 10, United States Code, to authorize the Department of Defense to award grants to institutions and organizations that promote training of United States scientists, engineers, and managers in Japanese language and culture; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1418. A bill to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. DOLE (for himself, and Mr. SPECTER):

S.J. Res. 170. Joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day", and authorizing the display of the National League of families POW/MIA flag on flagstaffs at certain Federal facilities; to the Committee on the Judiciary.

By Mr. KASTEN:

S.J. Res. 171. Joint resolution to designate the month of August 1991, as "Wisconsin Cheese Month"; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GORE, Mr. GORTON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 172. Joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE):

S. Res. 147. Resolution to express Senate opposition to the use of force to resolve political differences in Yugoslavia; considered and agreed to.

By Mr. PRESSLER (for himself and Mr. HELMS):

S. Res. 148. Resolution to express the sense of the Senate that the United States should support the right to self-determination of the people of the Republic of Moldavia and northern Bucovina; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. SASSER, Mr. BOREN, Mr. PELL, Mr. BIDEN, and Mr. SARBANES):

S. 1399. A bill to establish a program to provide Soviet graduate students with scholarships for study in the United States; to the Committee on Foreign Relations.

UNITED STATES LAW AND BUSINESS TRAINING PROGRAMS FOR SOVIET GRADUATE STUDENTS ACT

Mr. MITCHELL. Mr. President, last week, at the invitation of Senator DOLE and myself, the newly elected President of the Russian Republic, Boris Yeltsin, visited the Capitol. In introducing President-elect Yeltsin for remarks he delivered to a luncheon meeting of Senators, I told him that in my view whether the Soviet Union succeeds or fails in its current efforts to democratize and to move toward a free market economy rests largely in the hands of the people of the Soviet Union.

The United States can and will provide encouragement. The United States can and should provide limited assistance. But ultimately success or failure will be determined by the people of the Soviet Union themselves and their leaders.

I will today introduce legislation that provides modest, but I believe important assistance to the Soviet Union, of the type that I think most useful, and I would like to address that legislation at this time.

In the midst of heated debate about the wisdom of undertaking a so-called

grand bargain to help the Soviet Union undertake its economic and political reforms, it is easy to overlook the small but meaningful steps the United States can take now to advance the cause of democratization in the Soviet Union.

The Soviet Union is opening its doors and its minds to Western political and economic thought, offering a unique opportunity to affect the shape and pace of change in the country.

Sadly, many Soviet reformers lack a meaningful understanding of democracy or free market economic practice, for Soviets have long lacked access to Western educational institutions in which they might have gained such an understanding.

For over 40 years, the United States has criticized communism and urged the Soviet Union to reform itself and to establish democratic institutions. Now, we have a chance to do this through positive, peaceful means by helping the Soviets understand and implement the concepts and practices of a free market economy and a democratic political system.

America should be sharing its great resources of democracy and economic freedom with the people of the Soviet Union. It is in our interest to provide such access to the rising class of Soviet professionals, giving them the opportunity to study Western systems and practice, particularly in the fields of law and economics.

If we help Soviet lawyers and economists understand the basic concepts and mechanisms of a free market economy and the legal basis of a democratic political system, they can use this knowledge to shape the reform process not just this year but for decades to come. This will be what ultimately makes possible a fundamental transformation of the Soviet Union.

The United States has taken some steps in this direction. From agricultural cooperation, to teaching about housing privatization, to providing a crash course on market economics, the administration has proposed or implemented several exchange and cooperation programs. Unfortunately, many of these are limited in time, scope, or depth.

The United States also supports youth exchange programs for Americans and Soviets through the Samantha Smith Program.

While these are useful programs, we must bridge the gap between these two approaches. There is clearly a need for a sustained and comprehensive program for Soviet graduate students in disciplines that are crucial to the meaningful reform.

That is the reason for the legislation I am introducing today with my distinguished colleagues Senators SASSER, BOREN, PELL, BIDEN, and SARBANES. I particularly want to commend Senator SASSER for his essential role in transforming this valuable concept into a realistic program.

The United States Law and Business Training Program or Soviet Graduate Students Act is an innovative and specific approach toward helping the Soviet people help themselves. The bill proposes to help provide Soviet graduate students with an American educational and vocational experience that will fundamentally shape their contribution to the future of the Soviet Union.

Specifically, the legislation authorizes scholarships for up to 500 Soviet graduate students in the fields of business administration, economics, law, and public administration. These students would study for at least 1 year at an American institution for higher education, and would participate in an internship or other training program in their professional field.

In short, the legislation would provide a combination of academic and hands-on knowledge in economics and law that would enable graduates to apply their experience in behalf of the reform process upon their return to the Soviet Union.

The program can grow to meet the demand and utility of bringing additional graduate students from the Soviet Union to the United States. American educational institutions, as well as Soviet students, will benefit as the program expands.

This is a necessary and worthwhile investment in human capital. Concepts of market dynamics and the legal protection of individual rights cannot be fully implemented by people who do not understand and have never experienced them.

If we want the Soviet Union to undertake a fundamental transformation that I believe all Americans do, it is in our interest to help equip their future leaders to guide their country along the path toward democracy and individual freedom.

This legislation can begin to fill the gaping hole between desire and the ability to continue economic and political reform in the Soviet Union.

It is a modest beginning in the important process of sharing the theory and practice of our economic and political system with the next generation of leaders in the Soviet Union.

Mr. President, I send the bill to the desk and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. STATEMENT OF PURPOSE.

The purpose of this Act is to establish a scholarship program designed to bring students from the Soviet Union to the United States for study in the United States.

SEC. 2. FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) It is in the national interest for the United States Government to provide continuing financial support to individuals from the Soviet Union to study in the United States, and to gain experience and training in free market economics, Western business and legal systems, and public administration, in order to assist the process of economic and political reform in the Soviet Union, increase mutual understanding, and build lasting links between the Soviet people and the people of the United States;

(2) providing scholarships to Soviet students to study in the United States will over time effectively create strong bonds between the United States and the future leadership of the Soviet Union and its republics, while assisting the Soviet people in their political and economic reform efforts:

(3) study in United States institutions by Soviet students will enhance trade and economic relationships by providing professional and business contacts;

(4) students from the Soviet Union have in the past been unable to study in the United States for political and financial reasons;

(5) it is essential that the United States citizenry increase its knowledge and understanding of the Soviet Union, its language, cultures, and socioeconomic composition as the Soviet Union assumes a role in the world economic community; and

(6) a scholarship program for students from the Soviet Union to study in the United States would complement international efforts to assist the Soviet Union in its economic, political and social reforms.

SEC. 3. SCHOLARSHIP PROGRAM AUTHORITY.

(a) IN GENERAL.—The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher eduction coupled with private and public sector internships by nationals of the Soviet Union who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(b) FORM OF SCHOLARSHIP; FORGIVENESS OF LOAN REPAYMENT.—To encourage students to use their training in the Soviet Union, each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to the Soviet Union for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 208 of the Immigration and Nationality Act or is admitted to the United States as a refugee pursuant to section 207 of that Act, one-half of the repayment shall be forgiven.

SEC. 4. GUIDELINES.

The scholarship program under this Act shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency shall develop and strictly implement specific financial need criteria. Scholarships under

this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant from the Soviet Union shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration, Scholarship opportunities shall be limited to fields that are critical to economic and political reforms in the Soviet Union, particularly business administration, economic, law, or public administration.

(6) The program shall be flexible to include not only training and eductional opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for schlarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the Soviet republics.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this Act that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

SEC. 5. FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.

There are authorized to be appropriated to the United States Information Agency $17,500,000 for fiscal year 1992, and $35,000,000 for fiscal year 1993, to be used to carry out this Act.

SEC. 6. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

Any authority provided by this Act shall be effective only to the extent or in such amount as are provided in advance in appropriation Acts.

Mr. DOMENICI. Mr. President, before the distinguished majority leader leaves the floor, might I comment on the discussion that he just had with the Senate on the bill that he just sent to the desk for printing and referral.

I am not totally familiar with it, but I did hear the distinguished majority leader discuss it. I have a summary sheet. While I might have objection to some specifics, I want to say to the Senator the overall idea is, in the opinion of the Senator from New Mexico, an excellent idea.

I think we both heard Boris Yeltsin open his discussions with us by saying, "I do not want dollars and money," and then he said what he wanted. I think it sounded something like this summary. Not exactly, because he spoke differently than we in terms of institutions. I congratulate the Senator on his efforts.

Mr. MITCHELL. I thank the Senator very much. This bill had been in the planning stages prior to his visit, but the visit confirmed in my mind the relevance of this to the ongoing transformation in the Soviet Union.

I thank the Senator for his comments.

Mr. SASSER. Mr. President, I am pleased to be a principal cosponsor of the United States Law and Business Training Program for Soviet Graduate Students Act. This act will establish a scholarship program to bring students from the Soviet Union to the United States to study law and business administration.

With this measure, for this first time a substantial number of young Soviets will be able to come to the United States to enter educational programs. And they will come to the United States to study business administration, economics, law, and public administration. These are the fields which will contribute the most to promoting economic and political reforms in the Soviet Union.

And what could be more useful at this moment of history? The Soviet Union faces a time of fundamental change. The old guard of communism is being replaced by free-market forces and democratic ideas.

But, these changes will take time. And no matter what our desires are for speeding these changes along—the fact is that it will be the next generation of Soviet citizens which will see these changes through and indeed, reap the rewards of this effort.

But to make this happen, we must help plant the seeds of change. And what better way than through education?

One way to do this is to allow young Soviet citizens to come to the United States to learn how our system works. To see democracy in action; to study law and business; to make the most valuable kinds of connections—those between our two peoples.

And what better way to plant the seeds of change than to give Soviet graduate students the ability to come to the United States and get hands-on experience in the business world and to take that knowledge back to the Soviet Union.

This program will do just that. It will combine formal education at universities in the United States with real world experience provided through internships and training in professional settings.

Furthermore, it will ensure that these students will return to the Soviet Union to speed economic and political reform, by making each scholarship in the form of a loan with repayment only to be forgiven after the student returns to the Soviet Union.

And it will be fair, providing equal opportunities for students from each of the Soviet republics and making financial need a criteria for receiving a scholarship. It will not be a giveaway program for those who can afford other alternatives.

This is a well-crafted piece of legislation. I commend Senator MITCHELL for his leadership on this matter. I hope to see this act signed into law as one key mechanism for promoting economic and political reform in the Soviet Union. We must seize this moment of history.

Mr. PELL. Mr. President, I am pleased to cosponsor legislation establishing a Soviet graduate scholarship program that is being introduced today by the distinguished majority leader.

As a long-time advocate of international exchanges, I strongly support the creation of a program that would bring Soviet students to the United States to gain experience in areas such as business, law, and public administration. As we have seen with other successful exchange programs, a regimen of U.S. study and hands-on training in these fields can help create a cadre of individuals capable of introducing and implementing economic and political reform at home. Indeed, the administration has already initiated some cooperative programs with the Soviet Union, but these exchanges have not gone far enough.

During his visit to the United States, Boris Yeltsin, the newly elected president of the Russian republic, reminded us that Russia, and indeed the entire Soviet Union, desperately lacks managers skilled in the ways of a market economy. He also suggested that for reform to succeed, the individuals charged with implementing any democratization initiatives or market-oriented measures, will need technical training and a greater understanding of the workings of a free market and of a democratic political system. Mr. President, I believe that this legislation takes an important step toward meeting what President Yeltsin and others have identified as a genuine need.

The United States has a stake in the success of Soviet reform. In an age of increased international economic competition, I believe that the United States should have the foresight to realize that study in United States institutions by Soviet students can enhance trade relationships by providing professional and business contacts between Soviets and Americans. It is in our interest to offer our experience with democracy and the free market to Soviet students. In so doing, we will build links that will bear fruit as the students who are trained in the United States assume leadership positions in government and business.

Mr. BIDEN. Mr. President, I am pleased to join with my colleagues

49-059 O—95 Vol. 137 (Pt. 12) 19

today in sponsoring the majority leader's legislation to provide United States scholarships to Soviet graduate students. I am particularly delighted to cosponsor this bill, Mr. President, because it creates a means for the United States to have an impact on the Soviet reform process relatively soon, even while we continue to consider what sort of more financially substantial assistance we might want to offer in the future.

This body, Mr. President, has already spent many hours debating whether or not the United States should provide aid to the Soviet Union, what programs aid might be used for, whether aid should be conditioned on specific reforms, and a host of other questions. We, and indeed people throughout the Nation, will spend many hours arguing over the merits of the United States giving money to the Soviet Union.

Those arguments will continue for some time, as well they should. The possibility of the United States providing aid to the Soviet Union is truly one of the most significant, not to say contentious, foreign policy problems to confront the Nation in recent years.

But today, Mr. President, without need for extended and rancorous argument, the majority leader has suggested a way for the United States to help reform in the Soviet Union in a straightforward, practical, and eminently useful manner.

There are probably few more logical methods of helping to change a nation than by helping to change what its citizens are taught. Progress in the Soviet Union can be encouraged by encouraging young Soviets, from all republics, to learn about the institutions and processes that underlie a free-market economy and a true democracy.

The inculcation of budding young professionals with the basic principles of public administration, commercial law, and a legal system that respects individual rights will, ideally, guide these professionals through their careers. This, for the moment, is the best way to provide aid, and useful aid, to urge reform in the Soviet Union.

The scholarship program created by this legislation will help hundreds of young, energetic Soviet leaders to understand the workings of democracy and capitalism, and, just as importantly, to learn something about the character of the United States itself. And make no mistake about it, Mr. President, this program seeks to send these young people home to the Soviet Union to have them lead their nation on the path of democracy and open markets. We ARE looking for converts.

Mr. President, the legislation is particularly wise in emphasizing the need for practical training. In meeting after meeting with Soviet and East European officials, I have heard pleas for fundamental technical assistance and training. Their nations suffer a stunning, virtually complete lack of familiarity with principles without which our society could not function: basic accounting, the use of computer systems, the application of commercial law, banking procedures, and on and on. The Soviets have essentially no experience with the operations that are absolutely essential to the functioning of our own economy and the training of our own professionals.

The program envisioned in this legislation will target those students already interested in the fields of economics, law, and public administration and will offer them practical internships, in addition to academic training, while they are in the United States.

In fact, I would hope and expect that many of these young people will return home not only to help lead their country down a new path, but also to teach some of their fellow citizens what they learned in the United States. There is, Mr. President, a lot of bang for the buck in this program.

The legislation further specifies that the scholarships should be awarded to graduate students—young people poised to begin their careers and to usher in a new era in the Soviet Union. Moreover, Mr. President, the legislation has as an integral part of its structure an incentive for the students to return to the Soviet Union—the promise that their educational loans will be forgiven if they promptly return to the Soviet Union and remain there for one year longer than the time spent in the United States under the auspices of the program.

Further, the bill before us makes clear that the students studying in the United States must be representative of all republics of the Soviet Union and should be reasonably balanced between male and female students. These stipulations in themselves will make clear to the students that the United States puts high value on their individual identities and aspirations as citizens of different republics, and on the need for equitable treatment and opportunity for men and women alike.

In the meantime, these young people will enrich the United States. Thousands of U.S. students and faculty will get to know these Soviet students during their stay. Our knowledge of the Soviet Union, our appreciation of its diversity, will grow considerably.

No doubt these scholarships will inspire some American students to pursue Soviet studies after getting to know their new Soviet colleagues. Like their Soviet counterparts, these Americans will contribute to this Nation's ability to function well internationally.

Mr. President, I would like to add that I would be pleased to offer an internship in my office to one of these students as part of his or her practical training in the United States once the program begins, ideally early in the next fiscal year. Working with a person with a background entirely different from our own would enrich my staff and our common efforts. Moreover, I hope such an experience would provide unique insight for a Soviet student into the Senate and the process of U.S. lawmaking.

Most importantly, Mr. President, I believe this program will create a reservoir of good will toward the United States among those people who study here. We each know foreign leaders who studied here as young people and whose fondness for our Nation, and appreciation for its values and institutions, was permanently instilled by that youthful experience. We would do well to instill some of that affection and understanding in the future leaders of the Soviet Union.

Mr. President, this proposal by the majority leader meets the most fundamental criterion I can imagine: It is a highly cost-effective means of promoting United States national security.

By Mr. DOMENICI (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRAMM, Mr. SYMMS, Mr. WALLOP, Mr. KASTEN, Mr. NICKLES and Mr. CRAIG):

S. 1400. A bill to provide for a study of the General Accounting Office by a special inspector general, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

GENERAL ACCOUNTING OFFICE REFORM ACT

Mr. DOMENICI. Mr. President, I rise today to introduce legislation that would put in place a major review and reform of the General Accounting Office. I am joined on this legislation by both the Republican leader, Senator DOLE, the assistant Republican leader, Senator SIMPSON, and others, who share with me a genuine concern for the General Accounting Office.

Mr. President, it should be clear to every one in this Chamber that recently there has been an uneasiness, I would characterize it as an uncertainty, about the role and operation of the General Accounting Office. And that uncertainty bothers all of us who have over the years looked to the General Accounting Office as a professional organization providing the Congress with objective financial reviews and audits.

I have tried to identify in my own mind, what it is that has generated this uncertainty, this uneasiness, and I have come to the conclusion, that at least for this Senator, there are three broad reasons.

These are:

First, a sense of loss of professionalism at the GAO; second, a sense of loss of an organization's integrity; and,

third, a generic concern over the efficiency of, not just the GAO, but other audit review organizations around this town.

The legislation which I am introducing today attempts to address each of these broad concerns with some specific recommendations. A cornerstone of the legislation is the creation of a special inspector general with broad authorities to audit and review the GAO, including the drawing of samples of GAO studies and subjecting them to review—one might say peer review—by outside organizations for their accuracy, authenticity, and professionalism.

Frankly, Mr. President, I do not take the floor today to introduce this legislation casually. The General Accounting Office is an excellent instrument. But these days, an operation with over 5,000 employees and costing almost 0.5 billion, with no one looking at them to make sure that they are doing their job properly just does not fit well in these United States.

Let me say at the outset, the legislation is not meant to punish or embarrass the GAO for, in truth, since their creation with the Budget and Accounting Act of 1921, GAO has done generally what we, the Congress, have authorized it to do. We, the Congress, as the creators of this organization designed specifically to serve us, must from time to time have appropriate oversight of this entity. If we do not do it in detail and in depth on a regular basis, then the time will come for the introduction of legislation like this. There is no peer review provided for anything within the GAO. I understand that even some in the GAO, and maybe even Mr. Bowsher, are of a mind that perhaps peer review of their reports and their audits is in order.

This legislation will see to it that it is done. The time has come. We cannot continue to have an organization of this size, with the kind of powers they have, turned loose on agencies and Departments of the Federal Government and people of this country with absolutely no oversight and then have their work product given a credibility beyond that which it deserves because, frequently, it is motivated by direction from someone trying to prove something. It is frequently less than objective, but nobody finds out until many, many weeks have passed, or perhaps a contrary report of some significance comes out, and then it is too late.

Having said all of that, let me tell my colleagues what we are going to try to do to solve these problems.

Loss of professionalism. I have a sense that the GAO's professionalism has suffered over the last few years. It is not easy to quantify such an amorphous thing as professionalism. But clearly there are a few clues which speak to an organization's professionalism which I am going to highlight.

One, there is a sense among Members of Congress that GAO has not been performing the functions they have been established to perform, while in fact doing things that are not their responsibility.

There is a sense among experts and those outside the Government familiar with the GAO studies that the quality of the work product varies dramatically. Some are excellent, some are moderate, and some are absolutely of poor quality. Yet all are given the same kind of credibility because they are GAO products.

Many Members of Congress feel that the level of resources required to produce these products of varying quality is excessive and has grown disproportionately when compared with other support agencies on the Hill.

Many feel the GAO expends excessive resources for outside consultants, training and retreats for staff, overhead expenses for glossy reports, and other unnecessary expenses.

Finally, there is a sense that some at the GAO are more interested in getting headlines than in supporting the Congress with the information required.

So, from its beginning as an office whose function centered on bookkeeping and accounting, GAO's powers have been expanded. Some of these powers are explicit, as when Congress specified, in title X of the Budget Act, the Comptroller General's power to bring suits against the administration for inappropriate impounding of budget authority. Others are less clear. In 1970, the Congress gave the Comptroller General the authority to evaluate the results of Government programs on his own initiative.

GAO's resources are immense. GAO is the largest support agency here on the Hill. GAO's budget represents one-quarter of the total legislative branch appropriations. Its budget is 8 times the size of the Congressional Research Service, 21 times the size of the Congressional Budget Office. Over the last 10 years the GAO budget has grown at nearly 8 percent per year, nearly twice the rate of growth for all nondefense discretionary programs over the same time period.

GAO has nearly 5,100 staff. About 100 of these staff are on detail to congressional committees, primarily House committees and primarily to majority staffs.

Interestingly, while staffs and budgets of GAO have increased dramatically over the last 12 years, the number of congressional GAO reports has changed very little. In 1978, GAO produced 6,399 congressional reports and legal decisions, in 1990 this number had declined to 4,421.

These facts simply support the perception that more is being expended by GAO, while less is being produced, and this does not say anything about the quality of the products.

Probably the most blatant example of lack of professionalism was a recent incident relayed to the Senate Armed Services Committee by General Schwarzkopf who told of GAO's visit not once but twice to the front lines of Operation Desert Storm to review the Apache helicopter. The GAO investigators apparently did not find anything wrong the first time, thought they were being misled and went back a second time—again finding nothing.

What GAO is doing in a war zone, occupying limited military resources that clearly had other more pressing requirements, boggles my mind. But nevertheless this is an example of questionable professional judgment on the part of GAO.

LOSS OF ORGANIZATIONAL INTEGRITY

Organizational integrity and professionalism are inextricably linked. But here again Mr. President, the perception and actual fact has led a number of my colleagues to conclude that internal GAO controls and the confidence Members can have that a product produced at GAO will be objective and unbiased has clearly been lost.

This problem manifests itself in a number of areas:

The November 1988 "Transition Reports" issued by GAO read like the policy platform of the defeated Governor Dukakis. The reports, not requested by any Member of Congress or the administration, were expensive, wasteful, and highly partisan.

The GAO Journal, a high-gloss quarterly publication disseminated at taxpayer expense, regularly includes non-GAO staff articles, some expressing a clear political preference on legislative agendas.

There has also been a clear pattern in recent GAO testimonies that promote a policy, rather than provide information. Examples include most recently a GAO testimony on the Canadian health care system, the Comptroller's recommendation on June 13 before the House Ways and Means Committee to effectively break the budget caps for discretionary spending by not counting certain Medicare administrative costs against the caps, flip flops in 1989 over whether the United States Postal Service should be on or off-budget. These are just a few examples of both quality control failures and policy pronouncements that most feel are not within GAO's purview.

There is a perception and many times confirmed practice, that individual requesters of GAO studies or reviews get the answer he or she is looking for. It is also an acknowledged GAO procedure that a requester of a study can demand that no outside review of the study be allowed. The most recent GAO paper on the superconducting super collider, did not even allow the affected agency—

the Department of Energy—to comment on this critical report.

Members have also observed that sometimes requested studies or audits have made it into the press prior to the requester having seen the study or audit. A large organization such as GAO needs to have well established and carefully followed internal control procedures for its product.

Finally, and the most obvious manifestation of lost GAO objectivity has been the pattern of detailing GAO staff to congressional committees. Out of the 100 GAO details to congressional committees, there is only 1 detail to a minority staff of a Senate committee. Need I say more.

EFFICIENCY IN GOVERNMENT

Finally, there is a perception that GAO along with all the other organizations established over the last decade to review and audit and analyze Government programs, may be duplicating one another and thus making it even more difficult to program managers to carry out their basic program responsibilities.

Last year, Mr. President, we passed the Chief Financial Officers Act that places additional responsibilities for audits in the executive branch. We also have 27 inspector generals with budgets totaling nearly $750 million and with over 9,340 staff. Add to all this the GAO's auditing and review process and our own committees' oversight responsibilities, and it is no wonder that program managers in this town are drowning in reviews.

There is a need for financial audits and reviews, but my perception and that of a number of people I talk to is that things are getting out of hand. The system seems to be choking on analysis, and I'm not totally convinced that the legislation—for which these reviews are conducted—is necessarily any better.

OVERVIEW OF LEGISLATION

Mr. President, these three broad concerns—GAO professionalism, GAO integrity, and efficiency in Government audits and review—from the basis of the legislation I am submitting today.

Simply stated this legislation sets up a procedure whereby a special inspector general would be appointed by the President to independently review the GAO. The issues I have raised here—the perceptions of lost professionalism, fairness, and efficiency of the GAO—would be subjected to a careful and timely review.

Within 15 months this special inspector general would make detailed legislative recommendations for reforming the GAO to address these concerns.

The special inspector general would be charged with conducting a thorough study and financial audit of the operations of the GAO. That examination would determine, among other things, if the GAO has exceeded its authority under the law, whether its product is produced in an impartial and fair manner, whether its work duplicates the work of other legislative, executive, or inspector generals' work.

Both the use and cost of consultants and contract services would be carefully reviewed by the special inspector general, as would the purpose, cost, and effectiveness of its regional and overseas offices. The special inspector general would be required to draw a sample of recent GAO reports and studies and subject them to an independent analysis for accuracy and professional standards of research by outside organizations with expertise in the area in which the GAO study concentrated.

While this review is ongoing the legislation would set in place procedures for considering and reviewing GAO study requests as well as making congressional details, so that at least until the special inspector general has made his recommendations, the perception of fairness in the treatment of both the majority and minority will be established.

Mr. President, I conclude by observing once more that the purpose of this legislation is not to be destructive, in fact it is to be constructive. It is designed to help reestablish this important and vital congressional resource as one of the preeminent organizations serving all Members of the Congress.

The Senator from New Mexico wants to make it clear, I truly am concerned, and this is not a partisan concern. I want to submit a letter that the Secretary of Energy sent, not only to me, but members of the Energy Committee, when he asked that a report on the super collider be reviewed by his Department before it was issued—and he was denied that opportunity. In the letter to each member of the committee here in the Senate, and perhaps in the House, he indicates that it was in error in many respects, yet he had no opportunity to call that to anyone's attention. That is not right.

Frankly, in this legislation we say to the GAO, if you are going to have reports like that, you are going to state it right on the front. If there are qualities about it that are unusual, you are going to state it right up front so the media of America and the people will know what kind of report it is.

Mr. President, I ask unanimous consent, the bill I have alluded to be sent to the desk, and ask it be referred. I state, in addition to Senators DOLE and SIMPSON, and other Senators, cosponsoring this reform measure are Senators COATS, BROWN, BURNS, GARN, GRAMM, SYMMS, WALLOP, KASTEN, and NICKLES.

Mr. President, I ask unanimous consent a letter to me from Secretary of Energy James D. Watkins, together with enclosures, be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, May 8, 1991.

Hon. PETE DOMENICI,
Ranking Minority Member, Committee on the Budget, Senate, Washington, DC.

DEAR SENATOR DOMENICI: I want to take this opportunity to comment on the report issued April 15, 1991, by the General Accounting Office (GAO) on the Superconducting Super Collider (SSC) project. This report is an example of how the GAO does not always serve the best interests of the Congress or the taxpaying public. The GAO reports should provide the Congress with a complete and unbiased picture of the issues and a full set of facts that are pertinent to the concerns of the Congress and the decisions it faces. This report misses that fundamental purpose by a wide mark. It was released by the GAO with no opportunity for the Department to comment on the information presented or the veracity of the conclusions.

Addressing the key points of the GAO report, I want to first comment about the management. The SSC has received my priority attention since arriving at the Department over 2 years ago. Deputy Secretary Henson Moore is involved with the program on almost a daily basis. We have a strong management team in place, a team that has successfully built large projects and one that possesses world-renowned technical capabilities. I personally look to Mr. Joseph Cipriano and Mr. Edward Siskin to manage this project on a daily basis and to report to me on the health and well being of the SSC. At Headquarters, Mr. Garry Gibbs, Deputy Director of the SSC office, has been the Acting Director since last July and continues to provide the strong leadership and guidance needed for activities for this program.

Second, regarding the footprint and site geology, the Texas site in Ellis County has proven to be an excellent choice, the best of seven candidate sites from around the country. The configuration of the ring and its exact location (the footprint) underwent extensive evaluation before the State of Texas was requested to begin acquiring land. A sound and comprehensive geotechnical program is in place and construction in the Eagle Ford shale is being held to a minimum. Construction in this rock formation is well within the state-of-the-art for tunneling and its cost is included in the baseline cost estimate.

Third, the superconducting magnet program is moving forward in a measured and thoughtful manner. This program is carefully structured to effect the transfer of the magnet technology from the laboratory to industry, who will in turn develop the design and tooling to manufacture and produce large quantities of these magnets. The challenge of the magnets is not in the design of the magnets but in their manufacture with a uniformity of performance and control of unit cost. Results of tests done with 1.8-meter models of the new 50-mm diameter design have been quite successful and give us confidence that we are on the right track. Production tunneling will not begin until we are sure that we have achieved the desired performance of the magnets and we have demonstrated their reliable manufacture.

Lastly, the State of Texas has been very supportive of the SSC project and they have provided leadership and resources in meeting their commitment of the land and $1 billion for the SSC. The Memorandum of Understanding signed between the Texas National Research Laboratory Commission and the Department reflects the spirit and the reality of this commitment. As our first major

partner, Texas is providing $149 million for the project in FY 1991 and another $130 million is expected for FY 1992.

I've provided additional information and details on these items in the enclosure for your reference and use.

We are a critical stage in moving ahead with successfully building the SSC. We have provided a responsible and credible baseline and are committed to building the SSC on schedule and within budget. This is the critical year to ramp up the funding for construction; we need your help. Other prospective partners are closely watching the actions of Congress to determine the national will and commitment to this project.

Sincerely,

JAMES D. WATKINS,
Admiral (U.S. Navy, Retired).

SUPERCONDUCTING SUPER COLLIDER—STATUS AND PROGRESS

SSC MANAGEMENT

Dr. Roy Schwitters was named with Superconducting Super Collider (SSC) Laboratory Director the same day that the Department announced the selection of Universities Research Association (URA) as the Management and Operating contractor to build the SSC. As the Laboratory Director, Dr. Schwitters has provided the critical leadership and overall direction for the project during the early, formative stages of establishing and staffing the Laboratory organization. Although some of the key management positions at the Laboratory were initially filled on an acting basis, the key people responsible for the accelerator design and magnet development have been there from the outset.

In April 1990, the Department recruited Mr. Joseph Cipriano to become the Department of Energy (DOE) Project Director at the SSC On-Site Project Office to be responsible for the day-to-day DOE oversight and management of the URA contract and SSC Laboratory activities. To further strengthen the management of a large project the scale of the SSC, the Laboratory brought in Mr. Edward Siskin to become the General Manager for the SSC Laboratory in October 1990. At this same time, Mr. Paul Reardon was named the Project Manager at the SSC Laboratory.

This team brings together a strong combination of both technical and large project management experience. It has been in place for some time now and is making its impact felt. At this time, we can attest to the fact that the SSC project is on schedule and below the baseline budget outlined in the "Report of Superconducting Super Collider Cost and Schedule Baseline."

The General Accounting Office's (GAO) attempt to compare the management of this project with experience at the Social Security Administration seems to stretch the bounds of believability for an undertaking of the scope and complexity of the SSC. This project has received the highest level of attention and priority by both the Deputy Secretary and myself since we arrived at the Department. In the Office of Energy Research, there have been only two "Acting" Directors of the SSC office, one for 15 months and the present Deputy Director, Mr. Garry Gibbs. Mr. Gibbs has been the Deputy since August 1989, and has been the Acting Director since July 1990. He continues to provide the needed strong leadership and guidance for the headquarters' program activities.

FOOTPRINT AND SITE GEOLOGY

This description of the SSC site geology is misleading and does not capture the extent of the considerations that led to defining the final footprint. Neither does it properly describe the present SSC Laboratory plan to characterize the site. The Ellis County, Texas, site was the best choice from seven of the best geological locations in the United States. The "SSC Footprint Characterization Document" (SSC-SR-1041) describes in detail the considerations which resulted in setting the configuration and final footprint. An extensive investigation of underground conditions was conducted by the SSC Laboratory in addition to that conducted by the Texas National Research Laboratory Commission (TNRLC).

The final ring configuration represents the optimal location and was based on considerations of: machine constraints, tunnel length in each material type, service area shaft depths, experimental hall depth, experimental hall foundation requirements, and cost. Construction in the Eagle Ford shale has been held to a minimum, its effect is included in the baseline cost estimate, and techniques for underground tunneling are well within the state-of-the-art.

The decision to sink an exploratory shaft was put "on hold" while decisions on a prototype tunnel, as an alternative, were made. During the development of the baseline cost and schedule estimate, an exploratory shaft was added back into the geotechnical program. This exploratory shaft and associated instrumentation are now in the program, they are in the baseline budget and schedule, and a contract will be let this summer for their construction.

MAGNETS

The GAO report repeatedly refers to the magnet development as being "compressed", quoting as an example the issuance of the request for proposals (RFP) for the collider dipole magnets in July 1990, "* * * even before Fermi National Accelerator Laboratory began building the first model 50-mm magnet in October 1990." This portrayal of the magnet development program and this RFP is misleading and needs clarification.

It is important to note that these are cost-plus contracts for engineering development work to finalize the magnet design, they are not fixed-price contracts for production. Thus, the exact details of the design of these magnets were not specified because, in fact, the objective of these contracts is to complete their engineering development and the final design before they begin production. The fixed-price contract(s) for production will not be let until late 1994, after the design has been fixed and tests confirming their performance completed. A solid technology base is available to proceed with the final stage of the magnet development program. Tests of the 40-mm dipole magnets over the last several years have been successful, with more than a dozen each of short and long magnets. In fact, contrary to the tone of the report, the change from 40-mm to 50-mm in aperture diameter represents a relatively small modification of the design; with the 50-mm magnets being easier to design and to fabricate.

The GAO report expresses concern that "* * * each subsequent phase of development overlaps the preceding phase." This schedule is consciously structured to accomplish this very effect. Concurrent engineering, with overlap between product development and manufacturing, is now widely practiced in industry because it saves money and is effective in reducing time to produce. It is this very practice which allows Japanese auto makers to produce a new car model in record time.

The problem with magnets related to the ISABELLE project occurred well over a decade ago, before there was any experience with accelerators using superconducting magnets. By now, there is 8 years of experience with the 6-kilometer circumference Tevatron collider and industry has demonstrated the capability to successfully produce superconducting magnets for Hadron-Elektron-Ring-Anlage (HERA), also 6 kilometers in circumference. The Soviet Union is building a 3-TeV superconducting accelerator, the UNK.

Design work on the SSC magnets began almost 7 years ago. The coil type was chosen 5 years ago. There were difficulties with the first seven full-length SSC dipole magnets, but these problems were overcome 3 years ago when the "fully constrained" design was introduced. Fifteen long dipoles have been built and tested since that time, with good results—all of the magnets performed to the limit of their superconducting material. The design and production of the 50-mm dipole magnets is not terribly different from that experience gained in producing the 40-mm magnets and the 75-mm magnets for HERA. This assessment is further supported by the excellent performance achieved with the very first 50-mm, short (1.8-meter) models.

The successful completion of the magnet string test is not a prerequisite for start of tunnel construction. While earlier results are expected, the milestone for successful completion of the string test is the fourth quarter of FY 1992. Tunnel construction is on the critical path for completion of the project and the present schedule calls for beginning to construct a short tunnel sector only shortly before the magnet string test is completed. It takes more than 2 years to construct a tunnel section and to outfit it for magnet installation. Beginning tunnel construction late in FY 1992 is critical to meeting the scheduled ramp-up in high-rate dipole magnet production scheduled for late in 1994.

TEXAS MEMORANDUM OF UNDERSTANDING

The State of Texas has been fully supportive of the SSC project and, in the Department's opinion, the Memorandum of Understanding (MOU) between DOE and Texas meets the full spirit of the Texas proposal. The Texas proposal was voluntary, opened by the Department only after the Texas site in Ellis County was selected. This selection was on technical merits only, with the Texas site being the best choice out of seven candidates.

The MOU reflects the full scope and intent of the agreement and understanding with Texas on their support for the SSC. In addition to the $1 billion that Texas has committed, they are also providing the land for the SSC at no cost to the Federal government. Of the $1 billion, the Texas proposal included $125 million for SSC related research and development, fellowships and educational activities not related directly to building the SSC. The balance of the $1 billion, $875 million, is directly supporting the construction of the SSC and, by formal definition of project costs, will offset the total project cost.

Mr. SIMPSON. Mr. President, this morning Senator DOMENICI spoke and introduced a bill which would provide for a special inspector general for the General Accounting Office. I think that that legislation is all too necessary and I commend the Senator from New Mexico for taking the lead in this matter.

Let me note, I have received many fine reports from the GAO in my time here, so this is not some universal indictment of the quality of the GAO's work. Rather, what is needed is a general oversight function over an agency of the Government. That is what we are talking about. And I think Senator PETE DOMENICI is right on track.

What is needed is a check-and-balance authority over GAO, that every single other agency, indeed every other branch of this Government, operates under.

When James Madison established the constitutional framework for our Government, he had the foresight to realize that no organ of Government would be completely impartial or reliable, unless another branch of Government had some authority to question and review its work.

I point out that all this legislation does is submit GAO to the same review that every other agency and branch of Government experiences, and to the same review that the Framers of our Constitution intended for any organ of the Federal Government.

Today it is apparent that the GAO itself is in need of the same oversight and objective monitoring, which we look to the GAO to provide to us. The growth in resources which the GAO has used in recent years is well documented and undeniable. But I think that most citizens would be astounded to know that the GAO budget is eight times the size of that of the Congressional Research Service. It has grown exponentially. It is extraordinary, as to the size of the budget and the number of personnel. Moreover, the GAO is employing its budget to engage in activities which, I must say, routinely surprise me.

I did not know that the GAO was set up to make recommendations regarding the relative virtues of the American and Canadian health systems, for instance. Perhaps some feel that that is what they should be doing. However, I do not recall that the intent of creating the GAO was to provide a source of policy recommendations on issues of that sort. We have enough policymakers around Washington as it is, without GAO getting into the business.

Let me share with my colleagues a personal example of the sort of GAO activity which I believe demonstrates clearly the need for an inspector general. As you all know, I have been deeply involved in immigration and refugee issues in my time here. Any one of the things that Senator KENNEDY and I placed in the last legislation was to have a review, by GAO, to determine whether employer sanctions had been solely responsible for any discrimination.

So the GAO went to work. They released a report finding widespread discrimination resulting solely—that is the key word—from the implementation of employer sanctions. This report was issued in spite of the fact—and this is startling—in spite of the fact that GAO's chief of methodology, in their methodology section—their resident expert in methodology—filed a very detailed six-page memorandum clearly stating that the GAO investigators had not found evidence in their 3-year study to support that conclusion.

In addition, GAO hired a panel of immigration experts to review its report on discrimination caused by employer sanctions—solely caused—before the report was released. And that panel found unanimously that GAO had not linked the discrimination that it had measured—which was very small—to anything that had anything to do with employer sanctions. Nonetheless, GAO went blithely forward with its finding linking discrimination to employer sanctions.

Mr. President, I am pretty sure I know why GAO made such a finding. Various special interest groups put the heat on them. They placed extreme pressure on GAO to find that employer sanctions had created new employment discrimination. I personally witnessed the pressure throughout the years in congressional hearings and in public conferences held specifically on employer sanctions. The GAO knuckled under the pressure because it perceived such a finding of discrimination to be politically correct; the old specter of PC also haunts these hallowed Halls, as it does the halls of campuses around the United States of America.

Mr. President, I think it is up to the politicians to respond to the political pressure. That is our job. But it is the responsibility of GAO to give us a neutral, unbiased report on the topic that Congress has requested. The obvious influence, now, of special interest groups on the GAO, their internal staff and their susceptibility to the pressure of those groups, should be of great concern to those of us in Congress. We look to the GAO to provide us with facts, not interpretations, suppositions—facts. Facts, and not things which various political interest groups seek to advance. It is exactly this sort of situation which Senator DOMENICI'S bill would address and remedy.

The problem, in my mind, is not a failing of the GAO. It is its lack of accountability, its burden of staff—and we have failed to ensure oversight accountability.

No human being and no agency is above bias or prejudice, which is why oversight of even the most conscientious public servants is necessary.

We can debate all the proper functions of the GAO at length but I think that, at the very least, we need to do a better job of defining what the GAO is and what it is supposed to do. That is what the special inspector general would do. And that special inspector general office, created by this legislation, would review the procedures engaged in by the GAO, determine whether they are truly nonpartisan, whether they use an excessive amount of Federal resources, and where GAO may be exceeding its mandate.

That is an important goal to accomplish and I believe we all can join in ensuring that GAO is a neutral, impartial, efficient, and trusted agency.

Those goals are in our interest in Congress, no matter which party controls the White House or the Congress. Therefore, I urge my colleagues to support this measure, and I yield the floor.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1401. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

RURAL HEALTH CARE PROVIDERS INCENTIVE ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation, along with Senator SYMMS, COCHRAN, GRASSLEY, and KASTEN, that would encourage health care providers to establish medical practice in rural areas. As debate heats up on the issue of health care reform, I believe that it is important to recognize the particular needs of rural areas, where health care manpower and services are inadequate. Shortages of health care providers, together with low reimbursement rates under Medicare and Medicaid, drastically reduce the number of individuals served by the health care system.

In my State of South Dakota, there is an extreme shortage of health care providers. Officials of the office of rural health in South Dakota have informed me that they could easily place 50 general practitioners to meet health care needs in the communities of South Dakota. The National Association of Community Health Centers recently ranked South Dakota 49th in the percentage of population served per primary care physician.

On the nine Indian reservations in South Dakota, these shortages are particularly critical and health conditions are far below optimal levels. The Aberdeen Indian Health Service, located in Aberdeen, SD, serves the States of North and South Dakota and also portions of Iowa and Nebraska. This office recently informed me that as many as 26 physicians are desperately needed to maintain adequate health care services for the native American population in these four States. They have also emphasized the need for physician assistants, nurse practitioners, and registered nurses, who are qualified to fill in for physicians in providing many essential medical services. It is urgent that these shortages be addressed.

The legislation we are introducing today would supplement existing programs, such as the National Health Service Corps, by creating a modest tax incentive for health care providers to locate in underserved, rural areas, and Indian reservations that are sorely in need of health care providers.

Earlier in this Congress, I introduced similar legislation that encourages physicians to practice in communities with 5,000 or fewer individuals and a per capita income of $15,000 or less. Senator SYMMS and I have worked together to develop a more comprehensive bill that has been expanded to include registered nurses, nurse practitioners, and physician assistants. Senators COCHRAN, KASTEN, and GRASSLEY also have joined in this effort. This legislation would allow a deduction from a taxpayer's gross income of up to $5,000 for interest paid on qualified educational loans. This deduction would be available for a minimum of two years, and an optional third year, in exchange for a commitment to establish a medical practice or work in health service in a rural community.

The cost of medical education is very expensive. The American Association of Medical Colleges has estimated the average indebtedness of medical school graduates in 1990 was approximately $45,000. The three major loans now available to medical students carry interest rates ranging between 10 and 12 percent and can be repaid over a period of 10 to 25 years. We believe that the legislation we are submitting today provides a reasonable incentive for health care professionals who wish to practice in underserved rural areas and Indian reservations.

I urge our colleagues to join in cosponsoring this legislation. The basic health care needs of rural areas must be addressed. The proposal we are offering today makes a minor change in the tax code that could result in a major expansion of access to health care services. Congress should eliminate disincentives for rural health care professionals. We simply must be more effective in meeting the health care needs of rural America.

Mr. President, I request unanimous consent that the bill be printed in the RECORD.

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

S. 1401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR STUDENT LOAN PAYMENTS BY MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.

(a) INTEREST ON STUDENT LOANS NOT TREATED AS PERSONAL INTEREST.—Section 163(h)(2) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(F) any qualified medical education interest (within the meaning of subsection (k))."

(b) QUALIFIED MEDICAL EDUCATION INTEREST DEFINED.—Section 163 of the Internal Revenue Code of 1986 (relating to interest expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED MEDICAL EDUCATION INTEREST OF MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.—

"(1) IN GENERAL.—For purposes of subsection (h)(2)(F), the term 'qualified medical education interest' means an amount which bears the same ratio to the interest paid on qualified educational loans during the taxable year by an individual performing services under a qualified rural medical practice agreement as—

"(A) the number of months during the taxable year during which such services were performed, bears to

"(B) the number of months in the taxable year.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified medical education interest for any taxable year with respect to any individual shall not exceed $5,000.

"(3) QUALIFIED RURAL MEDICAL PRACTICE AGREEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rural medical practice agreement' means a written agreement between an individual and an applicable rural community under which the individual agrees—

"(i) in the case of a medical doctor, upon completion of the individual's residency (or internship if no residency is required), or

"(ii) in the case of a registered nurse, nurse practitioner, or physician's assistant, upon completion of the education to which the qualified education loan relates,

to perform full-time services as such a medical professional in the applicable rural community for a period of 24 consecutive months. An individual and an applicable rural community may elect to have the agreement apply for 36 consecutive months rather than 24 months.

"(B) SPECIAL RULE FOR COMPUTING PERIODS.—An individual shall be treated as meeting the 24 or 36 consecutive month requirement under subparagraph (A) if, during each 12-consecutive month period within either such period, the individual performs full-time services as a medical doctor, registered nurse, nurse practitioner, or physician's assistant, whichever applies, in the applicable rural community during 9 of the months in such 12-consecutive month period. For purposes of this subsection, an individual meeting the requirements of the preceding sentence shall be treated as performing services during the entire 12-month period.

"(C) APPLICABLE RURAL COMMUNITY.—The term 'applicable rural community' means—

"(i) any political subdivision of a State which—

"(I) has a population of 5,000 or less, and

"(II) has a per capita income of $15,000 or less, or

"(ii) an Indian reservation which has a per capita income of $15,000 or less.

"(4) QUALIFIED EDUCATIONAL LOAN.—The term 'qualified educational loan' means any indebtedness to pay qualified tuition and related expenses (within the meaning of section 117(b)) and reasonable living expenses—

"(A) which are paid or incurred—

"(i) as a candidate for a degree as a medical doctor at an educational institution described in section 170(b)(1)(A)(ii), or

"(ii) in connection with courses of instruction at such an institution necessary for certification as a registered nurse, nurse practitioner, or physician's assistant, and

"(B) which are paid or incurred within a reasonable time before or after such indebtedness is incurred.

"(5) RECAPTURE.—If an individual fails to carry out a qualified rural medical practice agreement during any taxable year, then—

"(A) no deduction with respect to such agreement shall be allowable by reason of subsection (h)(2)(F) for such taxable year and any subsequent taxable year, and

"(B) there shall be included in gross income for such taxable year the aggregate amount of the deductions allowable under this section (by reason of subsection (h)(2)(F)) for all preceding taxable years.

"(6) Definitions.—For purposes of this subsection, the terms 'registered nurse', 'nurse practitioner', and 'physician's assistant' have the meaning given such terms by section 1861 of the Social Security Act."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) INTEREST ON STUDENT LOANS OF RURAL HEALTH PROFESSIONALS.—The deduction allowable by reason of section 163(h)(2)(F) (relating to student loan payments of medical professionals practicing in rural areas)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Mr. SYMMS. Mr. President, I am proud to join Senator PRESSLER today in introducing legislation to encourage medical professionals to start their practices in rural areas. While we have made some progress in recent years addressing rural health care issues, we still have a long way to go.

Finding adequate health care is an especially difficult problem in rural areas of this Nation. In my own State, where the doctor-to-resident ratio is less than a third of the national average, and the lowest in the Nation, the scarcity of local health care has subjected people to regular trips of over 150 miles to get basic medical attention.

Part of the problem is that reductions in Medicare reimbursements have placed a tremendous burden on rural hospitals and health care practitioners. Medical personnel in rural areas do not have a large number of patients over whom they can spread increased costs to make up for lost Medicare funds. In fact, in many cases the majority of patients seen by rural hospitals and doctors are covered by Medicare. When Medicare reimbursements are reduced, rural health care providers can, quite simply, be driven out of business.

Another part of the problem is that medical professionals, whether doctors, physician's assistants, or nurses, often leave school with an enormous mountain of debt in the form of student loans. Rural areas often don't generate enough income for the doctor or nurse

right out of school to survive financially in the face of thousands of dollars of payments of interest and principal each year.

Consequently, they are forced by financial considerations to begin their practice in an urban area. Of course, once their practice is going it's that much harder to move to a rural area even after these student loans are paid off. So even those doctors and nurses who would otherwise choose to practice in rural areas wind up staying in the cities. A cycle develops in which rural areas remain underserved.

Mr. President, the bill Senator PRESSLER and I are introducing today attempts to break this cycle. Our bill encourages medical professionals right out of school to set up their practice in rural areas by reducing some of the financial pressures. We accomplish this by allowing these individuals to deduct up to $5,000 in student loan interest costs each year for 2 years. Moreover, they get to take this deduction whether or not they itemize their other deductions because the student loan deduction is taken against their gross income, not against their adjusted gross income.

Under our bill, this deduction would be available to physicians, physician's assistants, registered nurses, and nurse practitioners if they agree to practice for 2 consecutive years in a rural area as evidenced by a qualified medical practice agreement between the individual and the applicable rural community. And the deduction is available for a third year if they continue their practice for a third year.

Our bill describes a rural area as a political subdivision of a State or an Indian reservation which has a population of 5,000 or less, and which has a per capita income of $15,000 or less.

I would also like to point out to my colleagues that this bill is entirely consistent with good tax policy. As a general rule, interest expense on student loans should be deductible. Somehow, in its attempt to discourage consumption by disallowing the interest deduction on consumer debt, the interest deduction on student loans got swept in, too. It's not hard to see that consumer debt and student loans are very different matters. Student loans are much more like business loans, the interest on which is clearly deductible. And I don't think it is hard to see, therefore, that the interest expense on medical professionals' student loans should be deductible.

This is not a major tax bill. It's a small bill. But its effects could be truly astounding because it breaks the cycle in which financial pressures drive medical professionals away from practicing in rural areas.

This bill creates a new cycle. It creates a cycle of encouraging medical professionals to begin their practice in a rural area. And once a medical professional has set up practice in a rural area, it will be relatively easy to continue to practice there.

Mr. President, access to health care is getting more difficult every year for residents of rural areas. It is time for the Congress to recognize the needs of America's rural population and reduce the inequity in health care availability between rural and urban areas. It is time to break the cycle of discouragement and start the cycle of encouraging bright young medical people to start their practices in the underserved rural communities of America.

By Mr. ADAMS (for himself, Mr. REID, Mr. BRYAN, Mr. METZENBAUM, Mr. CRANSTON, Mr. DASCHLE, Mr. WIRTH, Mr. SANFORD, Mr. LIEBERMAN, Mr. HATFIELD, Mr. HARKIN, and Mr. KENNEDY):

S. 1402. A bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes; to the Committee on Armed Services.

DEFENSE FEDERAL NUCLEAR FACILITIES WASTE MANAGEMENT ACT

• Mr. ADAMS. Mr. President, I am here today to introduce the Federal nuclear environmental response fund, a bill I have authored to improve the accountability of the Department of Energy as it tries to clean up decades worth of contamination at nuclear weapons facilities across the country. Senators REID, BRYAN, METZENBAUM, DASCHLE, CRANSTON, WIRTH, SANFORD, LIEBERMAN, HATFIELD, HARKIN, and KENNEDY join me as original cosponsors of this bill today.

For a few years now, the Department of Energy has been entering into agreements with individual States and branches of the Environmental Protection Agency to clean up and prevent further contamination at their nuclear facilities. These agreements include specific milestones for the accomplishment of environmental goals.

In Washington State we have the Tri-Party Agreement, in Colorado there are a number of agreements, including a Federal Facilities Compliance Agreement and an agreement in principle, and so on with other States.

The problem is we don't know how much these cleanup agreements will cost or if DOE is living up to the agreements at all. We don't even know which agreement deadlines DOE may be ignoring.

At Hanford alone, an analysis by Heart of America Northwest suggests that the DOE budget falls short of funding Tri-Party commitments by almost $400 million.

My bill seeks to make the Department of Energy accountable for its environmental spending. We want to know how the money is being spent and what results the taxpayer is getting.

We want DOE's 5-year planning process to be permanently connected to the costs of meeting site-specific milestones and we want its budget to be based on these cleanup agreements. The bill would also require DOE host States to report to Congress annually on the adequacy of site activities and budgets. Altogether, this bill should give the Congress a much better handle on site-specific problems and needs.

This bill will set up a separate fund for DOE's environmental restoration and waste management spending. This account would be set up in the Treasury and is meant to make it difficult for the Department of Energy or its contractors to shift environmental funds to nonenvironmental missions.

There are some other provisions in the bill that are also worthy of mention. The bill would permanently elevate the Office of Environmental Restoration and Waste Management, currently headed by Mr. Leo Duffy, to the assistant secretary level. It would require DOE, host States, and EPA to agree on comprehensive land use plans for each site; these plans are essential to reviewing DOE's environmental priorities. Finally, the bill seeks to codify the Department of Energy's practice of making grants to States to facilitate environmental monitoring of DOE nuclear installations. These sites often tax State environmental agencies with their size and complexity, and I would like to see this system codified while Secretary Watkins is at DOE.

With this bill Congress will be better able to oversee how the Department of Energy is spending its environmental dollars and what results are—or aren't—coming of these dollars. This accountability is much needed in a budget that has grown from about $900 million in 1988 to a requested $2.2 billion in 1992.

The bill will also serve to strengthen the States' input into the Department of Energy's cleanup priorities. States need to have this input—States with DOE nuclear facilities have a great stake in seeing that these installations are as pollution free as possible. This bill helps to translate the States' interests into DOE and congressional budget priorities.

Mr. President, I am happy to be introducing this bill today. I hope for its early consideration and expect that if it is enacted it will significantly improve oversight of DOE's environmental activities.•

By Mr. BURNS:

S. 1403. A bill for the relief of Ron Buxbaum; to the Committee on the Judiciary.

RELIEF OF RON BUXBAUM

Mr. BURNS. Mr. President, I rise today to offer legislative relief for the Ronnie Buxbaum family of Fairview, MT. Ron is a beet grower who farms along the Yellowstone River in the

eastern part of our State. Each year Ron, as do other beet growers, hires migrant labor to assist in the beet crop.

However, when Ron was unable to hire a migrant worker who showed up unannounced at his farm, he later found that he was being sued in a court in Texas for breach of contract. Those suing Ron probably thought that he would make an easy mark. To have a suit brought in far away Texas and by a legal group known for its advocacy of migrant rights.

But Ron knew that he had done nothing wrong. And he decided to fight. Well, Ron eventually won—the case was thrown out of court—but at a considerable cost. The cost wasn't in just dollars spent, although some $35,000 were spent, but also in an emotional cost and in a cost to the Buxbaum families health.

Ron suffered a near heart attack that put him in the hospital. The grades of the two children suffered badly and counseling was required. The banks that had provided Ron with operating capital became uncertain about his ability to repay.

All of this happened to Ron simply because a federally funded advocacy group in Texas saw an opportunity to take a Montana farmer for some easy money. It shouldn't be allowed to happen. And in at least this one case it didn't happen. The Federal Government owes Ron Buxbaum the money he spent to defend himself. In truth, it owes him a whole lot more.

Mr. President, I ask that the full text of my bill be printed in the RECORD.

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

S. 1403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, $35,000 to Ron Buxbaum of Fairview, Montana. Such sum shall be full and complete satisfaction of all costs arising out of the legal defense and mental pain and suffering incurred as a result of legal action initiated by the Texas Rural Legal Aid group, a federally-funded advocacy group.

SEC. 2. Nothing in this Act shall be construed as an admission of liability on the part of the United States.

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1404. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited Program, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

Mr. THURMOND. Mr. President, as the ranking minority member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to introduce by request the Job Training Partnership Act Amendments of 1991. I am pleased that the ranking minority member of the Labor and Human Resources Committee, Senator HATCH, is joining in the introduction of this administration proposal. This bill would amend the Job Training Partnership Act [JTPA] by improving the targeting of JTPA funds to those facing serious barriers to employment, strengthening program accountability, enhancing existing job training services, and promoting the coordination of a broad range of programs and resources.

In 1989, the administration submitted a similar proposal which was later modified. That modified proposal came before the Senate during the last days of the 101st Congress, but unfortunately a final bill was not agreed to by the House and Senate for final action. The bill introduced today includes some of the concepts from that legislation as well as other proposals.

Mr. President, in its 9 years of existence, the Job Training Partnership Act has helped many Americans develop the skills they need to enter the work force as productive citizens. We must continue to build upon and enhance the public-private sector partnership provided for in the act. This legislation introduced today would do just that.

I ask unanimous consent that the letter of transmittal, a statement in explanation of the bill, a section-by-section analysis, and the text of the bill appear in the RECORD immediately following my remarks.

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

S. 1404

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited at the "Job Training Partnership Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

Sec. 101. Statement of purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Definitions.
Sec. 104. Composition of private industry council.
Sec. 105. Job training plan.
Sec. 106. Performance standards.
Sec. 107. Selection of service providers.
Sec. 108. Limitation on certain costs.
Sec. 109. Governor's coordination and special services plan.
Sec. 110. State council.
Sec. 111. State education coordination and grants.
Sec. 112. Repealer.
Sec. 113. General program requirements.
Sec. 114. Benefits.
Sec. 115. Fiscal controls; sanctions.
Sec. 116. Reports, recordkeeping, and investigations.
Sec. 117. Establishment of Adult Opportunity Program.
Sec. 118. Establishment of Youth Opportunity Program.
Sec. 119. Employment and training assistance for dislocated workers.
Sec. 120. Job Corps.
Sec. 121. Establishment of Youth Opportunities Unlimited Program.
Sec. 122. Technical and conforming amendments.
Sec. 123. Effective date; transition provisions.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCIL

Sec. 201. Establishment of State Human Resource Investment Council.
Sec. 202. Duties of State council with respect to applicable programs.
Sec. 203. Effective date.

TITLE I—AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

SEC. 101. STATEMENT OF PURPOSE.

Section 2 of the Job Training Partnership Act (hereafter in this title referred to as "the Act") is amended to read as follows:

"SEC. 2. It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 3(a)(1) of the Act is amended by—

(1) striking "part B" and inserting "parts B and H", and

(2) striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(b) Section (3)(b) of the Act is amended by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(c) Section (3)(c)(2) of the Act is amended by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(d) Section (3)(d) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as redesignated in paragraph (1) of this subsection), by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997"; and

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

"(2) There are authorized to be appropriated $25,000,000 for each of fiscal years 1992 through 1994 to carry out part H of title IV.".

(e) Section (3)(e)(2) of the Act is amended by striking "part A" and inserting "parts A and B".

SEC. 103. DEFINITIONS.

Section 4 of the Act is amended—

(1) by amending paragraph (3) to read as follows:

"(3) The term "basic skills deficient" means reading or computing skills at or below the 8th grade level on a generally accepted standard test or equivalent score on a criterion referenced test.";

(2) in paragraph (5), by—

(A) inserting "organizations serving older workers," after "Jobs for Youth,", and

(B) striking "(including the National Urban Indian Council)" after "Indians";

(3)(A) in paragraph (8)(B)(i), by striking "level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "income guidelines promulgated each year by the Secretary of Health and Human Services",

(B) in paragraph (8)(D), by inserting "subsections (a) and (c) of" after "under", and

(C) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with disabilities";

(4) in paragraph (10), by striking "handicapped individual" and inserting "individual with disabilities";

(5) in paragraph (22), by striking "Trust Territory of the Pacific Islands" and inserting "Freely Associated States and the Republic of Palau";

(6) in paragraph (24), by inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

"(ii) on the income of another family member but is no longer supported by that income, and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(8) by adding the following new paragraphs after paragraph (29):

"(30) The term 'educational agency' means (1) a public local school authority having administrative control of middle schools or secondary schools; (2) an accredited public or private institution legally authorized to provide alternative middle or high school education; (3) any public educational institution or agency having administrative control of secondary and postsecondary vocational education programs; (4) any institution legally authorized to provide postsecondary education; or (5) any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(31) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(5) and 254(d)(6)) under a program authorized and funded by this Act.

"(32) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(5) and 254(d)(6)) under a program authorized and funded by this Act.

"(33) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(34) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act.".

SEC. 104. COMPOSITION OF PRIVATE INDUSTRY COUNCIL.

Section 102(a)(2) of the Act is amended by inserting "local welfare agencies," before "organized".

SEC. 105. JOB TRAINING PLAN.

(a) Section 104(a) of the Act is amended by inserting "under title II" after "appropriated".

(b) Section 104(b) of the Act is amended to read as follows:

"(b) Each job training plan for the programs conducted for adults under part A of title II and for youth under part B of the title II shall contain—

"(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including—

"(A) assessment of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's Coordination and Special Services Plan;

"(4) a description of linkages with appropriate agencies designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with appropriate educational agencies;

"(B) arrangements with other education, training and employment programs authorized by federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies and other local agencies, community organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including performance goals established in accordance with standards prescribed under section 106;

"(6) adult and youth program budgets for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined to be necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

"(7) procedures for identifying and selecting participants, including, where appropriate, outreach efforts to recruit locally determined target groups, and for eligibility determination and verification;

"(8) a description of—

"(A) the assessment process that will identify participant skill levels and service needs;

"(B) the services to be provided, including the estimated duration of service and the estimated training cost per participant;

"(C) the competency levels to be achieved by participants as a result of program participation; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(9) a description of the procedures and methods of carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(10) procedures for selecting service providers, consistent with section 107, which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(11) fiscal control (including procurement, monitoring and management information system requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor, which shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which applicable performance standards were met.".

SEC. 106. PERFORMANCE STANDARDS.

Section 106 of the Act is amended to read as follows:

"SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by increased employment and earnings, reductions in welfare dependency, and increased educational attainment and occupational skills.

"(b)(1) In order to determine whether the basic measures described in subsection (a) are achieved for programs under parts A and B of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards.

"(2) The standards for adult programs under part A of title II shall be based on appropriate factors which may include—

"(A) placement in unsubsidized employment;

"(B) retention in unsubsidized employment;

"(C) the increase in earnings, including hourly wages,

"(D) the reduction in welfare dependency; and

"(E) the acquisition of skills, including basic skills, required to promote continued employability in the local labor market, provided that the acquisition of such skills is in addition to obtaining one or more of the outcomes described in subparagraphs (A) through (D).

"(3)(A) In addition to appropriate utilization of the factors described in paragraph (2), the standards for youth programs under part B of title II shall include—

"(i) attainment of employment competencies;

"(ii) secondary and postsecondary school completion or the equivalent thereof; and

"(iii) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

"(B) The Secretary may prescribe variations in the standards under subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(4) The private industry council, in consultation with educational agencies and the private sector, shall determine levels for competency standards based on such factors as entry skill levels and other hiring requirements.

"(5) The standards shall include provisions governing—

"(A) the base period prior to program participation that will be used;

"(B) a representative period after termination from the program that is a reasonable indicator of post-program employment and earnings; and

"(C) cost-effective methods for obtaining such data as are necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(6) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures. Such standards shall not be taken into consideration in the award of incentive grants pursuant to paragraph (7).

"(7) From funds available pursuant to sections 202(d)(1)(C) and 252(d)(1)C), each Governor shall award incentive grants to service delivery areas conducting programs under parts A and B of title II based on such service delivery areas—

"(A) exceeding the performance standards established by the Secretary pursuant to this subsection (except for the standards established pursuant to paragraph (6));

"(B) exceeding the performance standards established by the Governor for programs under title II pursuant to subsection (e); and

"(C) meeting other criteria designated by the Governor, such as—

"(i) successful serving target groups,

"(ii) establishing effective linkages with other programs to avoid duplication and enhance the delivery of services; and

"(iii) providing high quality services.

"(c) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(d)(1) Each Governor shall prescribe, within parameters established by the Secretary, variations in the standards issued under subsections (b) and (c) based upon—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State,

"(B) the characteristics of the population to be served,

"(C) the demonstrated difficulties in serving the population, and

"(D) the type of services to be provided.

"(2) The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals and long-term welfare dependency; and

"(C) provide guidance on setting performance goals at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients.

"(e) The Governor may prescribe performance standards for programs under title II and title III in addition to those standards established by the Secretary under subsections (b) and (c).

"(f) The Secretary shall prescribe performance standards for programs under parts A and B of title IV and for programs under title V.

"(g) The Secretary shall prescribe a system for adjustments in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders, taking into account their special circumstances.

"(h)(10) The Secretary may modify the performance standards under this section not more than once every two program years. Such modification shall not be retroactive.

"(2) Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part of title IV each program year.

"(i) The National Commission for Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameter for variations of such standards referred to in subsection (d),

"(2) evaluate the usefulness of such standards as measures of desired performance, and

"(3) evaluate the impact of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(j)(1) The Governor shall provide technical assistance to service delivery areas and substate areas within the State which do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers, or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area or substate area.

"(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the Chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

"(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. 107. SELECTION OF SERVICE PROVIDERS.

Section 107 of the Act is amended by adding at the end thereof the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.".

SEC. 108. LIMITATION ON CERTAIN COSTS.

(a) Section 108(a) of the Act is amended to read as follows:

"(a) Except as provided in section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) Section 108(b) of the Act is amended to read as follows:

"(b)(1) Funds expended under parts A and B of title II shall be charged to one of the following categories:

"(A) administration,

"(B) training-related and supportive services, or

"(C) direct training services.

"(2) The Secretary shall by regulation define the cost categories specified in paragraph (1).

"(3) Of the funds available to a service delivery area for any program year under parts A or B of Title II—

"(A) not more than 20 percent shall be expended for the costs of administration; and

"(B) not less than 50 percent shall be expended for direct training services.".

(c) Section 108 of the Act is further amended by—

(1) striking subsection (c);

(2) redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) inserting the following new subsection at the end thereof:

"(e) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 109. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) Section 121(b) of the Act is amended by—

(1) amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in this plan and identify the procedures developed to provide for the review of the JOBS plan by the State human resource investment council.";

(2) redesignating paragraphs (3), (4) and (5) as paragraphs (5), (6) and (7), respectively; and

(3) inserting the following new paragraphs after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, administration and financial management; capacity building; priorities and criteria for State incentive grants; and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for technical assistance to service delivery areas, interstate technical assistance and training arrangements, other coordinated technical assistance arrangements pursuant to the direction of the Secretary, and, where applicable, research and demonstration projects."; and

"(4) The plan shall include, in accordance with the requirements of section 123(c), a description of the programs conducted with funds provided under section 123.".

(b) Section 121(c)(7) of the Act is amended by inserting "coordination of activities relating to part A of title II with" after the paragraph designation.

SEC. 110. STATE COUNCIL.

(a) Section 122 of the Act is amended in the section heading by striking "STATE JOB TRAINING COORDINATING COUNCIL" and inserting in lieu thereof "STATE HUMAN RESOURCE INVESTMENT COUNCIL".

(b) Section 122(a) of the Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any State which desires to receive financial assistance under this Act shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as a State job training coordinating council. Funding for the duties of the council under this Act shall be provided pursuant to sections 202(d)(1)(A) and 252(d)(1)(A)."

(2) by striking paragraphs (2), (3), and (4) and redesignating paragraphs (5), (6) and (7) as paragraphs (2), (3), and (4), respectively;

(3) in paragraph (2) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council";

(4) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council, in carrying out its duties under this Act,"; and

(5) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council relative to carrying out its duties under this Act".

SEC. 111. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 of the Act is amended to read as follows:

"STATE EDUCATION COORDINATION AND GRANTS

"SEC. 123. (a) The sums available for this section pursuant to sections 202(b) and 252(b) shall be used by the Governor to provide financial assistance to any State education agency to carry out projects that—

"(1) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, including services that increase the rate at which dropouts return to regular or alternative schooling and obtain a high degree or equivalent;

"(2) provide adult literacy and lifelong learning opportunities and services of demonstrated effectiveness that enhance the knowledge and skills of educationally and economically disadvantaged individuals and result in increasing the employment and earnings of such individuals; and

"(3) facilitate coordination of education and training services for eligible participants in programs described under paragraphs (1) and (2).

"(b)(1) The activities described in subsection (a) shall be conducted pursuant to agreements between the State education agency, administrative entities in service delivery areas in the State, and other entities such as other State agencies, local education agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) The agreements described in paragraph (1) shall provide for the contribution by the State from funds other than those available under this Act of a total amount equal to the amount provided under this section. Such matching amount may include the direct cost of employment or training services provided by other Federal, State, or local programs or agencies.

"(c) Governors receiving assistance under this section shall include in the Governor's Coordination and Special Services Plan, pursuant to section 121, a description of the following:

"(1) the goals to be achieved and services to be provided by the school-to-work transition program receiving assistance, which shall, at a minimum, include—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent,

"(B) the work-based curriculum that will link classroom learning to worksite experience and address the practical and theoretical aspects of work,

"(C) the opportunities that will be made available to participants to obtain career-path employment and postsecondary education,

"(D) the integration to be achieved, where appropriate, in the delivery of services between State and local education agencies and alternative service providers, such as community-based and non-profit organizations, and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II–B and IV–B of this Act,

"(ii) the Elementary and Secondary Education Act,

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act,

"(iv) the Individuals with Disabilities Education Act,

"(v) the Adult Education Act,

"(vi) part F of title IV of the Social Security Act (JOBS); and

"(vii) the Stewart B. McKinney Homeless Assistance Act;

"(2) the goals to be achieved and services to be provided by adult literacy and lifelong learning programs receiving assistance, which shall, at a minimum, include—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the four-year State plan (and related needs assessment carried out for that plan) developed pursuant to section 342 of the Adult Education Act,

"(C) the variety of settings, including workplace settings in which literacy training and learning opportunities will be provided;

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II–A and III of this Act,

"(ii) the Adult Education Act,

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act,

"(iv) the Stewart B. McKinney Homeless Assistance Act,

"(v) part F of the Social Security Act (JOBS),

"(vi) the Rehabilitation Act of 1973, and

"(vii) the Emergency Immigrant Education Act; and

"(3) the proportion of funds received under this section that shall be used to carry out the program described in paragraph (1) and the proportion that shall be used to carry out the program described in paragraph (2).

"(d)(1) Services funded under this section to carry out the programs described in subsection (a) may include education and training, vocational education services, and related services to participants under title II. Such services may include services for offenders, veterans, and other individuals whom the Governor determines require special assistance.

"(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities at the State and local levels described in paragraph (3) of subsection (a).

"(B) At least 80 percent of the funds available under this section shall be used to carry out the Federal share of activities conducted pursuant to paragraphs (1) and (2) of subsection (a). For the purpose of this subparagraph, the Federal share shall be the amount provided for in the agreements in subsection (b).

"(3) Not less than 75 percent of the funds available to activities under paragraphs (1) and (2) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

"(e) If no agreement is reached pursuant to subsection (b) on the use of funds under this section, the Governor shall notify the Secretary and shall distribute the funds to service delivery areas in accordance with section 106(b)(7).

"(f)(1) The Governor shall report to the Secretary at such intervals as shall be determined by the Secretary on the activities funded under this section. The report shall include such information as the Secretary may require to determine the extent to which the activities supported under this section result in achieving the goals specified in paragraphs (1) and (2) of subsection (c).

"(2) Each recipient under this part shall keep records that are sufficient to permit the preparation of reports. Such reports shall be submitted to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 112. REPEALER.

(a) Section 124 of the Act is repealed.

(b) Sections 125, 126 and 127 of the Act are redesignated as sections 124, 125 and 126, respectively.

SEC. 113. GENERAL PROGRAM REQUIREMENTS.

(a) Section 141(d)(3) of the Act is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) inserting the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postseconary institution which are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.".

(b) Section 141(g) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraphs (2) and (3):

"(2) On-the-job training authorized under the Act shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed six months. In making this determination, consideration shall be given to recognized reference materials (such as the Dictionary of Occupational Titles), the content of the participant's training, the participant's prior work experience, and the participant's service strategy.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training and the other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer but instead is contracted through an intermediary brokering contractor shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within its own organization, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) Whenever a brokering contractor enters into a contract with a subcontractor to provide basic skills training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(c) Section 141(m) of the Act is amended to read as follows:

"(m)(1) Income received under this Act by a public or private non-profit entity may be retained by such entity only if used to continue to carry out the program, and may be used for such purposes notwithstanding the expiration of financial assistance for that program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services produced or provided as a result of activity funded under this Act;

"(B) funds provided to a service provider under this Act which are in excess of the costs associated with the services provided; and

"(C) except as provided by the Cash Management Improvement Act of 1990, interest income earned on funds received under this Act.

"(3) For purposes of this subsection, each entity shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

(d) Section 141(p) of the Act is amended by deleting the "part B of the title or part A of Title II" and inserting in lieu thereof "this Act".

(e) Section 141 of the Act is further amended by adding the following subsection at the end thereof:

"(q) The Federal requirements governing the title, use and disposition of real property, equipment and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

SEC. 114. BENEFITS.

Section 142(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) References in paragraphs (2) and (3) to section 6(a)(1) of the Fair Labor Standards Act;

"(A) shall be deemed to be references to section 6(c) of that Act for individuals in Puerto Rico,

"(B) shall be deemed to be references to 6(a)(3) of that Act for individuals in American Samoa, and

"(C) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act does not apply.".

SEC. 115. FISCAL CONTROLS; SANCTIONS.

(a) Section 164(a) of the Act is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with Generally Accepted Accounting Principles applicable in each State.

"(2) The Governor shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this act. Such standards shall, at a minimum, include provisions to ensure that, for States, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed,

"(ii) the risk borne by the contractor, and

"(iii) market conditions in the surrounding geographical area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary for approval the procurement standards established pursuant to paragraph (2), and shall biennially certify to the Secretary that—

"(A) the State's procurement standards fully satisfy the requirements contained in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall biennially review the procurement standards established pursuant to paragraph (2) and notify the appropriate Committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required corrective action.".

(b) Section 164(b) of the Act is amended to read as follows:

"(b)(1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor shall—

"(A) issue a notice of intent to revoke approval of all or part of the plan affected, or

"(B) impose a reorganization plan, which may include—

"(i) restructuring the private industry council,

"(ii) prohibiting the use of designated service providers,

"(iii) selecting an alternate entity to administer the program for the service delivery area, or

"(iv) other such changes as the Governor deems necessary to secure compliance.

"(2)(A) The actions taken by the Governor pursuant to paragraph (1)(A) may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until—

"(i) the time for appeal has expired, or

"(ii) the Secretary has issued a decision.

"(B) The actions taken by the Governor pursuant to paragraph (1)(B) may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. 116. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) Section 165(a) of the Act is amended by adding the following new paragraph:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsection (C), recipients shall maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate random sample.".

(b) Section 165(c) of the Act is amended by—

(1) striking "and" at the end of subparagraph (1);

(2) striking the period and inserting "and" at the end of subparagraph (2); and

(3) inserting the following new paragraph:

"(3) monitor the performance of service providers in complying with the terms of agreements made pursuant to this Act.".

(c) Section 165 of the Act is further amended by adding the following new subsection:

"(d) The Governor shall ensure that requirements are established for retention of all records pertinent to all grants, contracts and agreements, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records shall be retained for two years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of three years after final disposition of the property.".

SEC. 117. ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

Part A of title II of the Act is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 201. It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills with the result of improving their long-term employability, increasing their employment and earnings, and reducing their welfare dependency.

"ALLOTMENT

"SEC. 202. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(a)(1) for each fiscal year

and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the remainder of the amount available for this part, the Secretary shall reserve five percent of such amount for use by the States to carry out section 123 of this Act. The allotment of funds available under this subsection to each State shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(c)(1) After determining the amounts to be allocated under subsections (a) and (b), 89 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate to the service delivery areas within the State such amounts as determined by the Secretary pursuant to the formula contained in paragraph (2). The remaining 11 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted to service delivery areas for this part for each fiscal year—

"(A) 45 percent shall be allotted on the basis of the relative number of unemployed individuals within each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States;

"(B) 30 percent shall be allotted on the basis of the relative number of economically disadvantaged adults within each service delivery area as compared to the total number of economically disadvantaged adults in all service delivery areas in all States; and

"(C) 25 percent shall be allotted on the basis of the relative concentration of economically disadvantaged adults within each service delivery area as compared to the total concentration of economically disadvantaged adults in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) No service delivery area shall be allotted more than 130 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Notwithstanding subparagraphs (A) and (B), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of one percent of the total allotted to all service delivery areas in all States.

"(D) For purposes of subparagraphs (A) and (B), the allotment percentage for fiscal year 1992 shall be the percentage of funds allotted under part A of title II to the service delivery area during the preceding fiscal year.

"(4) For the purposes of this section—

"(A) the term "economically disadvantaged adult" means an individual who is age 22 or older and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (A) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (B) 70 percent of the lower living standard income level.

"(B) the term 'concentration' means the number which represents the number of economically disadvantaged adults in excess of 10 percent of the adult population in the service delivery area.

"(d)(1) Of the remainder available for allottment under this part—

"(A) five-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out the overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122;

"(B) three-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out technical assistance in developing the overall capability of the job training system within the State, which—

"(i) shall include the development and training of State and local service delivery area staff, including training on methods to improve the management and fiscal integrity of programs under this title; and

"(ii) may include the development of exemplary program activities and the conduct of evaluations and other activities designed to improve the programs conducted under this Act; and

"(C) three-elevenths shall be allotted to the States in accordance with paragraph (2) to provide incentive grants authorized under section 106(b)(7).

"(2)(A) The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within each State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(B) Notwithstanding subparagraph (A), the Secretary shall ratably adjust the amounts allocated to each State under paragraph (1)(A) to ensure that the total amount allotted to each State under paragraph (1)(A) and section 252(d)(1)(A) is not less than $450,000.

"ELIGIBILITY FOR SERVICES

"SEC. 203.(a) Except as provided in subsection (c), an individual shall be eligible to participate in the program under this part only if such individual is—

"(1) 22 years of age or older; and

"(2) economically disadvantaged.

"(b)(1) Not less than 65 percent of the participants in the program under this part in each service delivery area shall be individuals who, in addition to meeting requirements of subsection (a), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropouts;

"(C) recipients of aid to families with dependent children who either meet the requirements of section 403(1)(2)(B) of the Social Security Act or have been provided an employability plan in accordance with section 482(b) of the Social Security Act;

"(D) unemployed for the previous 6 months or longer;

"(E) individuals with disabilities;

"(F) homeless; or

"(G) a category established pursuant to paragraph (2).

"(2)(A) A service delivery area conducting a program under this part may, in accordance with guidelines established by the Secretary, add one category of individuals who face serious barriers to employment to the categories of eligible individuals specified in paragraph (1) if—

"(i) the service delivery area submits a request to the Governor which identifies the additional category and justifies the inclusion of such category, and

"(ii) the Governor approves the request submitted pursuant to clause (i)

"(B) The Governor shall include a description of the requests approved pursuant to subparagraph (A) in the Governor's Coordination and Special Services Plan.

"(c) Not more than 10 percent of participants in the program under this part in each service delivery area may be individuals who are not economically disadvantaged if such individuals are age 22 or older and are either included in one of the categories listed in subsection (b) or experience other barriers to employment. Such individuals may include, but are not limited to, those who have limited English language proficiency, or are displaced homemakers, older workers, veterans, offenders, alcoholics or drug addicts.

"(d)(1)(A) Each service delivery area shall make special efforts to identify and serve eligible individuals 55 years of age or older. Not less than 5 percent of the funds available to each service delivery area under this part shall be expended to provide services to such individuals.

"(B) If the Governor determines that in any program year a service delivery area expended less than 5 percent of the funds available under this part to provide services to eligible individuals 55 years of age or older, the governor shall—

"(i) recapture, from the funds available to the service delivery area under this part during the subsequent program year, an amount equal to the difference between the amount expended for such purposes and 5 percent of the amount available to the service delivery area under this part in such program year, and

"(ii) reallocate, for purposes of providing services to eligible individuals 55 years of age or older, the amount recaptured pursuant to clause (i) to other service delivery areas within the State in such manner as the Governor deems appropriate, taking into consideration such factors as demonstrated need and the quality of services provided to such individuals by the service delivery areas.

"(2) In providing the services required by paragraph (1), the State human resource investment council and the service delivery area shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965.

"(3) In the selection of service providers to serve older individuals, the service delivery area shall give priority to those national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"PROGRAM DESIGN

"SEC. 204.(a) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify the employment goal (including, where appropriate, nontraditional employment), appropriate achievement objectives and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1),

except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be made available to a participant where the assessment and the service strategy indicate such services are appropriate:

"(A) basic skills training; and

"(B) occupational skills training.

"(b) Services which may be made available to participants under this title may include, but need not be limited to—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) work experience;

"(E) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment;

"(F) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(G) skill upgrading and retraining;

"(H) bilingual training;

"(I) entrepreneurial training;

"(J) vocational exploration;

"(K) training programs to develop work habits to help individuals obtain and retain employment;

"(L) attainment of certificates of high school equivalency;

"(M) preapprenticeship programs;

"(N) on-site, industry-specific training programs supportive of industrial and economic development;

"(O) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training;

"(P) use of advanced learning technology for education, job preparation and skills training; and

"(2) training-related and supportive services, including—

"(A) assessment of participants' skill levels and service needs;

"(B) job search assistance;

"(C) job counseling;

"(D) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for the limited English proficient and individuals with disabilities;

"(E) specialized surveys not available through other labor market information sources;

"(F) disseminating information on program activities to employers;

"(G) development of job openings;

"(H) employment generating activities;

"(I) coordinated programs with other Federal employment-related activities;

"(J) supportive services, as defined in section 4(24) of this Act, necessary to enable individuals to participate in the program, and to assist them, for a period not to exceed 12 months following completion of training, to retain employment;

"(K) needs-based payments necessary to participate in accordance with a locally developed formula or procedure; and

"(L) follow-up services with participants placed in unsubsidized employment.

"(c)(1) Basic skills training authorized under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2)(A) Except as provided in subparagraph (B), job search assistance, job search skills training, job clubs, and work experience authorized under this part shall be accompanied by other services designed to increase a participant's basic education or occupational skills.

"(B) The program under this part may provide job search assistance, job search skills training and job club activities to a participant without the additional services described in subparagraph (A) only if—

"(i) the participant's assessment and service strategy indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the Employment Service or other public agencies.

"(3) In each service delivery area the ratio of participants in on-the-job training assisted under this part in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

"(4) Needs-based payments authorized under this part shall be limited to payments necessary to participation in the program under this part in accordance with a locally developed formula or procedure.

"(5) Counseling and supportive services authorized under this part may be provided to a participant for a period up to one year after termination from the program.

"(6) Employment generating activities authorized under this part shall be limited to activities which directly result in the creation of jobs into which participants in the service delivery area are placed.

"(7) The service strategy developed pursuant to section 204 (a)(2) shall not be considered a contract.

"(8) The service delivery area shall make opportunities available for successful alumni of programs under this part to volunteer assistance to participants in the form of mentoring, tutoring and other activities.

"LINKAGES

"SEC. 205(a) In conducting the program under this part, the service delivery area shall establish appropriate linkages with other programs authorized under Federal law. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Rehabilitation Act of 1973;

"(4) the Wagner-Peyser Act;

"(5) part F of title IV of Social Security Act (JOBS);

"(6) the Food Stamp Act;

"(7) the National Apprenticeship Act;

"(8) the Stewart B. McKinney Homeless Assistance Act;

"(9) the United States Housing Act;

"(10) the Head Start Act (for purposes of child care services); and

"(11) part A of title IV of this Act.

"(b) In addition to the linkages required under subsection (a), service delivery areas shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local educational agencies, local service agencies, public housing agencies, community organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development and social service programs.

"TRANSFER OF FUNDS

"SEC. 206(a) A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part B of this title if such transfer is—

"(1) based on economic or labor market conditions specified by the Secretary in regulations as sufficient to warrant a transfer;

"(2) described in the job training plan; and

"(3) approved by the Governor.

"(b) The Governor shall include a description of the transfers approved pursuant to subsection (a) in the Governor's Coordination and Special Services Plan.".

SEC. 118. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

Part B of title II of the Act is amended to read as follows:

"PART B—YOUTH OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 251. The purpose of the programs assisted under this part is to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational and occupational skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems which impair their ability to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"ALLOTMENT

"SEC. 252. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(b) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the remainder of the amount available for this part, the Secretary shall reserve five percent of such amount for use by the States to carry out section 123 of this Act. The allotment of funds available under this subsection to each State shall be based on the relative amounts of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(c)(1) After determining the amounts to be allotted under subsections (a) and (b), 89 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate to the service delivery areas within the State such amounts as determined by the Secretary pursuant to the formula contained in paragraph (2). The remaining 11 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted by the Secretary for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals within each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States;

"(B) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative concentration of economically disadvantaged youth within each service delivery area as compared to the total concentration of economically disadvantaged youth in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) No service delivery area shall be allotted more than 130 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Notwithstanding subparagraphs (A) and (B), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of one percent of the total allotted to all service delivery areas in all States.

"(D) For the purposes of subparagraphs (A) and (B), the allotment percentage for fiscal year 1992 is the percent of the funds allocated for youth programs (as determined by the Secretary) under title II to the service delivery area during the preceding fiscal year.

"(4) For the purposes of this section—

"(A) the term "economically disadvantaged youth" means an individual who is aged 16 through 21 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level;

"(B) the term "concentration" means the number which represents the number of economically disadvantaged youth in excess of 10 percent of the youth population in the service delivery area; and

"(C) the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the armed forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"(d)(1) Of the remainder available for allotment under this part—

"(A) five-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out the overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122;

"(B) three-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out technical assistance in developing the overall capability of the job training system within the State, which—

"(i) shall include the development and training of State and local service delivery area staff, including training on methods to improve the management and fiscal integrity of programs under this Act; and

"(ii) may include the development of exemplary program activities and the conduct of evaluation and other activities designed to improve the programs conducted under this Act; and

"(C) three-elevenths shall be allotted to the States in accordance with paragraph (2) to provide incentive grants authorized under section 106(b)(7).

"(2)(A) The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(B) Notwithstanding subparagraph (A), the Secretary shall ratably adjust the amounts allotted to each State under paragraph (1)(A) to ensure that the total amount allotted to each State under paragraph (1)(A) and section 202(d)(1)(A) is not less than $450,000.

"ELIGIBILITY FOR SERVICES

"SEC. 253. (a) An individual who is in school shall be eligible to participate in the program under this part only if such individual is—

"(1) aged 16 through 21 or, if provided in the job training plan, aged 14 through 21; and

"(2) economically disadvantaged, receives a free lunch under the National School Lunch Act, or participates in a compensatory education program under chapter 1 of the Elementary and Secondary Education Act of 1965.

"(b) Not less than 65 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) educational attainment that is one or more grade levels below the grade level appropriate to that individual's age;

"(3) pregnant or parenting;

"(4) individuals with disabilities, including a learning disability;

"(5) homeless; or

"(6) a category established pursuant to subsection (g).

"(c) An individual who is out of school shall be eligible to participate in the program under this part only if such individual is—

"(1) aged 16 through 21; and

"(2) economically disadvantaged.

"(d) Not less than 65 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) school dropout (subject to the conditions described in section 254(d)(2));

"(3) pregnant or parenting;

"(4) individuals with disabilities, including a learning disability;

"(5) homeless; or

"(6) a category established pursuant to subsection (g).

"(e) Not more than 10 percent of participants in the program under this part in each service delivery area may be individuals who do not meet the requirements of subsection (a)(2) or (c)(2) if such individuals experience one or more barriers to employment. Such barriers may include, but need not be limited to, the categories described in subsections (b) and (d), or categories such as limited English language proficiency, offenders, alcoholics, or drug addicts.

"(f)(1) Except as provided in paragraph (2), not less than 60 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(2)(A) The minimum percentage of participants in a service delivery area required to be out-of-school individuals pursuant to paragraph (1) may be reduced to a percentage that is not less than 40 percent if, in accordance with guidelines established by the Secretary—

"(i) a service delivery area conducting a program under this part submits a request to the Governor specifying an alternative percentage requirement and justifying the alternative requirement based on the characteristics of the youth population residing in the service delivery area, and

"(ii) the Governor approves the request submitted pursuant to clause (i).

"(B) The Governor shall include a description of the requests approved pursuant to subparagraph (A) in the Governor's Coordination and Special Services Plan.

"(g)(1) A service delivery area conducting a program under this part may, in accordance with guidelines established by the Secretary, add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals specified in subsection (d) if—

"(A) the service delivery area submits a request to the Governor identifying the additional categories of individuals and justifying the inclusion of such categories; and

"(B) the Governor approves the request submitted pursuant to subparagraph (A).

"(2) The Governor shall include a description of the requests approved pursuant to paragraph (1) in the Governor's Coordination and Special Services Plan.

"PROGRAM DESIGN

"SEC. 254. (a) The program under this part shall be conducted on a year-round basis.

"(b) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required where the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify achievement objectives, appropriate employment goals (including, where appropriate, nontraditional employment), and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required where the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be available to a participant where the assessment and service strategy indicate such services are appropriate:

"(A) basic skills training;

"(B) occupational skills training;

"(C) pre-employment and work maturity skills training;

"(D) work experience combined with skills training; and

"(E) supportive services.

"(c) Services which may be made available to youth with funds provided under this part may include, but need not be limited to—

"(1) the services described in section 204;

"(2) tutoring and study skills training;

"(3) alternative high schools jointly established or supported with educational agencies;

"(4) mentoring;

"(5) individual and group counseling;

"(6) drug and alcohol abuse counseling and referral;

"(7) services encouraging parental, spousal and other significant adult involvement in the participant's program;

"(8) limited internships in the private sector;

"(9) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations;

"(10) entry employment experience programs;

"(11) school-to-work transition services;

"(12) school-to-post secondary education transition services; and

"(13) school-to-apprenticeship transition services.

"(d)(1) In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) As a condition of participation in the program under this part, an individual who is under the age of 18 and a school dropout shall:

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternative high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) Pre-employment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase a participant's basic or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase a participant's basic education or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(5) Needs-based payments authorized under this part shall be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure.

"(6) Counseling and supportive services authorized under this part may be provided to a participant for a period of up to one year after termination from the program.

"(7) The service strategy developed pursuant to section 254(b)(2) shall not be considered a contract.

"(8) The service delivery area shall make opportunities available for successful alumni of programs under this part to volunteer assistance to participants in the form of mentoring, tutoring and other activities.

"LINKAGES

"SEC. 255. (a) In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include but are not limited to—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth;

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV of this Act (the Job Corps);

"(2) parts A through D of chapter 1 of the Elementary and Secondary Education Act of 1965;

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(4) the Individuals with Disabilities Education Act;

"(5) the Wagner-Peyser Act;

"(6) part F of title IV of the Social Security Act (JOBS);

"(7) the Food Stamp Act;

"(8) the National Apprenticeship Act;

"(9) the Stewart B. McKinney Homeless Assistance Act; and

"(10) part A of title IV of this Act.

"(c) In addition to the linkages required under subsections (a) and (b), service delivery areas shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"TRANSFER OF FUNDS

"SEC. 256. (a) A service delivery area may transfer up to 10 percent of the funds provided under the part to the program under A of this title if such transfer is—

"(1) based on economic and labor market conditions specified by the Secretary in regulations as sufficient to warrant a transfer;

"(2) described in the job training plan; and

"(3) approved by the Governor.

"(b) The Governor shall include a description of the transfers approved pursuant to subsection (a) in the Governor's Coordination and Special Services Plan.".

SEC. 119. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraph after paragraph (1):

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

SEC. 120. JOB CORPS.

Section 427(a)(2) of the Act is amended by—

(1) striking "10 percent" and inserting in lieu thereof "20 percent"; and

(2) adding at the end of paragraph (2) the following new sentence: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.".

SEC. 121. ESTABLISHMENT OF YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

Title IV of the Act is amended by adding at the end thereof the following new part:

"PART H—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"STATEMENT OF PURPOSE

"SEC. 491. It is the purpose of the Youth Opportunities Unlimited program to—

"(1) enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitate the coordination of comprehensive services to serve youth in such communities.

"PROGRAM AUTHORIZED

"SEC. 492. (a) The Secretary is authorized to establish a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas.

"(b)(1) the Secretary may only award grants under this part to—

"(A) the service delivery area in which the target area is located, or

"(B) grantees designated under sections 401 and 402, or a consortium of such grantees and the State, when the target area is located in an Indian reservation, Native Alaskan village, or migrant worker community.

"(2) The Secretary may award not more than 25 grants during the first fiscal year the program is authorized.

"(c) Grants awarded under this part shall be for a 1-year period and are renewable for each of the two succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(d) In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support, and the concentration of poverty in the target area.

"DEFINITIONS

"SEC. 493. For the purposes of this part—

"(1) The term 'participating community' means a city when referring to urban areas, a State when referring to rural areas, and to the section 401 or 402 grantee, or consortia of the State and section 401 or 402 grantee, when referring to Native American and migrant worker areas.

"(2) The term 'high poverty area' means an urban census tract, a nonmetropolitan county, an Indian reservation, or an Alaskan native village, with a poverty rate of 30 percent

or more as determined by the Bureau of the Census, or a migrant farmworker community.

"(3) Term 'target area' means a high poverty area or set of contiguous high poverty areas that will be the focus of the program in each participating community.

"APPLICATION

"SEC. 494. (a) Participating communities which have the highest concentrations of poverty, as determined by the Secretary based on the latest Census estimates, shall be eligible to apply for a Youth Opportunities Unlimited grant.

"(b) Each participating community desiring a grant under this part shall, through the individuals set forth in subsection (c), submit an application to the Secretary at such time in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for the Youth Opportunities Unlimited initiative designed to achieve identifiable goals for youth in the target area;

"(2) set forth measurable program goals, which may include increasing—

"(A) the proportion of youths completing high school,

"(B) the proportion of youths entering into community colleges or other advanced training programs, or

"(C) the proportion of youths placed in jobs;

"(3) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(4) provide assurances that the conditions set forth in section 495 will be met;

"(5) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(6) include an estimate of the expected number of youth in the target area to be served;

"(7) include a description of the resources available in the participating community from private, local government, State and Federal sources which will be used to achieve the goals of the program; and

"(8) provide evidence of support for accomplishing the stated goals of the participating community from—

"(A) local elected officials,

"(B) the local school system,

"(C) applicable private industry council,

"(D) local community leaders,

"(E) business,

"(F) labor organizations, and

"(G) other appropriate organizations.

"(c) The application for funds for a participating community may only be submitted to the Secretary by—

"(1) the Governor of the State in which the participating community is located; or

"(2) the grantee designated under sections 401 or 402, or jointly by the grantee and the Governor of the State in which such grantee is located, in applications for Native American or migrant worker communities.

"GRANT AGREEMENT

"SEC. 495. Each grant recipient under this part shall enter into an agreement with the Secretary. Each such agreement shall—

"(1) designate a target area that will be the focus of the demonstration project and which shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/post-secondary education programs;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increasing rural student enrollment in post-secondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) provide that funds received under this section will be used for services to youth ages 14 through 21;

"(4) contain assurances that the local educational agency and any other educational agency which operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the cost of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area during the previous year.

"PAYMENTS; FEDERAL SHARE

"SEC. 496. (a) In any fiscal year, grants awarded under this part shall be for equal amounts, except that grants to grantees designated under sections 401 and 402 may vary in amount depending on the size of the target area. The Secretary shall pay to each grant recipient the Federal share of costs of the activities described in the application.

"(b) The Federal share for each fiscal year a grant recipient receives assistance under this Act shall be 50 percent.

"(c) Each grant recipient may provide not more than 25 percent of its share from Federal sources other than funds received pursuant to this part.

"REPORTING

"SEC. 497. The Secretary is authorized to establish such reporting procedures as necessary to carry out the purposes of this part.

"FEDERAL RESPONSIBILITIES

"SEC. 498. (a) The Secretary shall provide assistance in the implementation of this project in participating communities.

"(b) The Secretary shall provide for a formal, rigorous, and independent evaluation of the Youth Opportunities Unlimited program to assess the outcomes for youth participating in such program. Evaluation measures may include—

(1) enrollment, retention, and completion rates;

"(2) high school graduation rates;

"(3) reductions in juvenile delinquency;

"(4) subsequent employment;

"(5) continued pursuit of advanced education and training;

"(6) admission into four-year colleges and universities; or

"(7) admission into the armed forces.

"(c) The Secretary shall prepare a report describing the results of the independent evaluation conducted pursuant to subsection (b).

"(d) The Secretary may reserve not more than 10 percent of the amount appropriated under this part in each fiscal year to carry out the provisions of this section.".

SEC. 122. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 101(a)(1) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(b) Section 122(b)(2) of the Act is amended by striking "section 202(a)" and inserting "sections 203(c) and 253(c)".

(c) Section 123(a) of the Act (as redesignated by section 111 of this title) is amended by striking "section 202(b)(4)" and inserting "sections 202(d)(2)(A) and 252(d)(2)(A)".

(d) Section 141(k) of the Act is amended by striking "section 205(d)(3)(B)" and inserting "part B of title II".

(e) Section 161(b)(2) of the Act is amended by striking "through 455" and inserting "and 453".

(f) Section 161(c) of the Act is repealed.

(g) Section 172 of the Act is redesignated the second place it appears as section 173.

(h) Section 181 of the Act is repealed.

(i) Section 302(b)(2) of the Act is amended by striking "part B and this part" and inserting "part A".

(j) Section 311(b)(9) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(k) Section 312(a) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(l) Section 313(a) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(m) Section 314(b)(1) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(n) section 317 of the Act is amended—

(1) by amending the section heading to read as follows: "FUNCTIONS OF THE STATE HUMAN RESOURCE INVESTMENT COUNCIL"; and

(2) by striking "State job training coordinating council" and inserting "State human resource investment council".

(o) Section 401(j) of the Act is amended by striking "3.3 percent of the amount available for part A of" and inserting "2.95 percent of the amount available for".

(p) Section 402(f) of the Act is amended by striking "3.2 percent of the amount available for part A of" and inserting "2.35 percent of the amount available for".

(q) Section 433(c)(1) of the Act is amended by striking "455" and inserting "453".

(r) Section 463(a)(3) of the Act is amended by striking "section 125" and inserting "section 123".

(s) Section 464(a)(3) of the Act is amended by striking "section 125" and inserting "section 123".

(t) Section 481(a) of the Act is amended by striking "(a)(1)" after "203".

(u) The table of contents of the Act is amended by—

(1) amending the item relating to section 122 to read as follows:

"Sec. 122. State human resource investment council.".

(2) striking the items relating to section 124 and redesignating the items relating to sections 125, 126, and 127 as sections 124, 125, and 126 respectively.

(3) striking the item relating to section 172 and inserting the following:

"Sec. 172. Presidential awards for outstanding private sector involvement in job training programs.
"Sec. 173. Construction.".

(4) striking the item relating to section 181;

(5) amending the items relating to title II to read as follows:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT OPPORTUNITY PROGRAM

"Sec. 201. Statement of Purpose.
"Sec. 202. Allotment.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Linkages.
"Sec. 206. Transfer of funds.

"PART B—YOUTH OPPORTUNITY PROGRAM

"Sec. 251. Statement of purpose.
"Sec. 252. Allotment.
"Sec. 253. Eligibility of services.
"Sec. 254. Program design.
"Sec. 255. Linkages.
"Sec. 256. Transfer of funds.

(6) inserting after item relating to section 481 the following:

"PART H—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Definitions.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

SEC. 123. EFFECTIVE DATE: TRANSITION PROVISIONS.

(a) The amendments made by this title shall take effect on July 1, 1992.

(b) Performance standards shall be issued pursuant to the amendments contained in section 106 as soon as the Secretary determines sufficient data are available, but no later than July 1, 1994.

(c)(1) The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act, as amended by this title.

(2) The guidance provided pursuant to paragraph (1), while continuing to maintain the integrity of the program, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility, and

(B) ensure, to the extent practicable, that the documentation burden shall not discourage the participation of eligible individuals.

(3) The guidance described in paragraph (1) shall be provided not later than February 1, 1992.

(d) The Secretary shall evaluate the impact of programs under title II of the Job Training Partnership Act as amended by this Act on participant employment, earnings and welfare dependency in multiple sites using the random assignment of individuals to groups receiving services under title II and to groups not receiving such services.

(e) The Secretary may establish such rules and procedures as may be necessary to provide for an orderly transition to and implementation of the amendments made by this title.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCIL

SEC 201. ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCIL.

(a) Each State that receives assistance under an applicable program shall establish a single State human resource investment council (hereafter in this title referred to as the "State Council") to—

(1) review the provisions of services and the use of funds and resources under applicable programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources consistent with the provisions of the applicable programs; and

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures.

(b) Each State council established as required by subsection (a) shall consist of the following members appointed by the Governor;

(1) 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State established under section 102 of the Job Training Partnership Act;

(2) 30 percent shall be appointed from representatives of organized labor and representatives of community-based organizations in the State;

(3) 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program; and

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the State housing agency, the State rehabilitation agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veteran's affairs agency (or its equivalent), State career guidance and counseling organizations, the State unit which administers the State vocational rehabilitation program, and any other agencies the Governor determines to have a direct interest in the utilization of human resources within the State; and

(4) 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units, appointed from nominations made by the chief elected officials of such units or consortia:

(B) representatives of local educational agencies and postsecondary institutions, which appointments shall be equitably distributed between such agencies and such institutions and shall be made from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare and public housing agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) In order to carry out its functions under this Act and under any applicable program, the State council shall prepare a budget for itself and submit the budget to the Governor for approval.

(d) Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out it functions under this Act and under any applicable program.

(e) Each State shall certify to the Secretary of Labor the establishment and membership of the State council at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

(f) For the purposes of this title, the term "applicable program" means any program under any of the following provisions of law:

(1) The Adult Education Act;

(2) The Carl D. Perkins Vocational and Applied Technology Education Act;

(3) The Job Training Partnership Act;

(4) The Rehabilitation Act of 1973;

(5) The Wagner-Peyser Act;

(6) Part F of title IV of the Social Security Act (JOBS); and

(7) Section 6(d)(4) of the Food Stamp Act of 1977.

SEC. 202. DUTIES OF STATE COUNCIL WITH RESPECT TO APPLICABLE PROGRAMS.

(a) DUTIES UNDER THE ADULT EDUCATION ACT.—(1) Section 332 of the Adult Education Act (20 U.S.C. 1205a) is amended—

(A) by amending the section heading to read as follows:

"Sec. 332. Duties of the state human resource investment council with respect to adult education.";

(B) by amending subsection (a) to read as follows:

"(a)(1) Any State desiring to participate in the programs authorized by this title shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as a State advisory council on adult education.

"(2) A State that complies with the requirements of paragraph (1) may use funds under this subpart for the purposes of costs of the council attributable to this section.";

(C) by striking subsection (b);

(D) by redesignating subsection (c) as subsection (b);

(E) in subsection (b) (as redesignated by subparagraph (D) of this paragraph)—

(i) by striking "and membership"; and

(ii) by striking "State advisory council" and inserting "State human resource investment council";

(F) by striking subsections (d) and (e);

(G) by redesignating subsection (f) as subsection (c); and

(H) in subsection (c) (as redesignated by subparagraph (G) of this paragraph), by striking "State advisory council" and inserting "State human resource investment council".

(2)(A) Paragraph (2) of section 331(a) of the Adult Education Act (20 U.S.C. 1205(a)) is amended by striking "the State advisory council established pursuant to section 332"

and inserting "the State human resource investment council".

(B) Subsection (a) of section 342 of the Adult Education Act (20 U.S. 1206a) is amended—

(i) in paragraph (1), by striking "the State advisory council" and all that follows and inserting "the State human resource investment council"; and

(ii) in subparagraph (B) of paragraph (3),—

(I) in the first sentence, by striking "the State advisory council" and all that follows and inserting "the State human resource investment council"; and

(II) in the second and third sentences, by striking "the State advisory council" each place it appears and inserting "the State human resource investment council".

(C) Section 312 of the Adult Education Act (20 U.S.C. 1201a) is amended by adding at the end the following new paragraph:

"(16) The term 'State human resource investment council' means the State human resource investment council described in section 332(a).".

(b) DUTIES UNDER THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Section 112 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2322) is amended—

(A) by amending the section heading to read as follows:

"Sec. 112. Duties of the state human resource investment council with respect to vocational education."

(B) by striking "SEC. 112.";

(C) by amending subsection (a) to read as follows:

"(a) Each state which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as the State council on vocational education.";

(D) in subsection (b)—

(i) by striking "and membership", and

(ii) by striking "State council" and inserting "State human resource investment council";

(E) by striking subsection (c);

(F) by redesignating subsections (d), (e) and (f), as subsections (c), (d), and (e), respectively;

(G) in subsection (c) (as redesignated by subparagraph (F) of this paragraph)—

(i) by striking "State council" and inserting "State human resource investment council,"; and

(ii) in subparagraph (B) of paragraph (9), by striking "the State job training coordinating council,";

(H) in subsection (d) (as redesignated by subparagraph (F) of this paragraph)—

(i) by striking "State council" and inserting "State human resource investment council"; and

(ii) by striking "Council" and inserting "council"; and

(I) in subsection (e) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1), by striking State councils" each place it appears and inserting "State human resource investment councils"; and

(ii) in paragraphs (1) and (2), by striking "State council" each place it appears and inserting "State human resource investment council".

(2) Section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act is amended—

(A) in paragraph (1) of subsection (a)—

(i) in subparagraph (B) by striking "State council on vocational education" and inserting "State human resource investment council"; and

(ii) in subparagraph (C), by striking "State council established pursuant to section 112" and inserting "State human resource investment council";

(iii) in subparagraph (D), striking "; and" and inserting a semicolon;

(iv) in subparagraph (E)—

(I) by striking "the State job training coordinating council" and inserting "the State human resource investment council"; and

(II) by striking "their respective programs" and inserting "programs under this Act and programs under the Job Training Partnership Act"; and

(B) in the first sentence of subsection (d), by striking "State council" and inserting "State human resource investment council"; and

(3) The table of contents contained in section 1 of the Act is amended by striking the item relating to section 112 and inserting the following:

"Sec. 112. Duties of the State human resource investment council with respect to vocational education.

(c) DUTIES UNDER THE REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended by inserting after section 18 the following new section:

"STATE HUMAN RESOURCE INVESTMENT COUNCIL

"SEC. 19. The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Wagner-Peyser Act;

"(5) Part F of title IV of the Social Security Act (JOBS); and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977."

(d) DUTIES UNDER THE WAGNER-PEYSER ACT.—The Wagner-Peyser Act (29 U.S.C. 49) is amended—

(1) by redesignating section 15 as section 16; and

(2) by inserting after section 14 the following new section:

"SEC. 15. The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) Part F of title IV of the Social Security Act (JOBS); and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977.";

(3) in subsection (b) of section 8 by striking "State job training coordinating council" and inserting "State human resource investment council";

(4) in subsection (a) of section 11 by striking "State job training coordinating council" and inserting "State human resource investment council".

(e) DUTIES UNDER PART F OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 483 of the Social Security Act (42 U.S.C. 683) is amended by:

(1) inserting after subsection (c) the following new subsection:

"(d) In order to assist the Governor in carrying out subsection (a) of this section, the State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this part and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) the Wagner-Peyser Act; and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977.";

(2) in paragraphs (2) and (3) of subsection (a) by striking "State job training coordinating council" each place it appears and inserting "State human resource investment council".

(f) DUTIES UNDER SECTION 6(d)(4) OF THE FOOD STAMP ACT OF 1977.—Section 6(d)(4) of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subparagraph:

"(O) The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this paragraph and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) the Wagner-Peyser Act; and

"(6) Part F of title IV of the Social Security Act (JOBS).".

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall take effect July 1, 1992.

U.S. DEPARTMENT OF LABOR,
Washington, DC, May 22, 1991.

Hon. DAN QUAYLE,
President, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I enclose for the consideration of the Congress a draft bill entitled the "Job Training Partnership Act Amendments of 1991." These amendments would revise the Job Training Partnership Act (JTPA) to improve the targeting of JTPA programs to those facing serious barriers to employment, enhance the quality of services provided, promote coordination of human resource programs serving the disadvantaged, and strengthen fiscal and program accountability.

Our nation faces important new challenges. An intensely competitive international economy requires that our labor force have improved skills that are adaptable to an increasingly technical workplace.

At the same time, demographic changes are altering the composition of our labor force. The convergence of these trends requires that we reach out to ensure that all our citizens, including the disadvantaged who have often been left behind, have the skills and opportunities to contribute to our nation's economic growth and prosperity.

I believe JTPA can continue to play an important role in enhancing the skills of our labor force. JTPA has been an extremely successful program. Its record in placing participants in jobs is unparalleled. These amendments are intended to improve the program by better focusing its resources on those in substantial need and enhancing the quality of services to promote job placement, retention, and long-term employability.

In 1989 the Administration submitted a similar proposal to amend JTPA. Versions of this proposal passed the House and Senate by overwhelming margins in the closing days of the 101st Congress. The Congress, however, adjourned without completing action on this important legislation.

This proposal incorporates several basic principles. First, the proposal maintains the successful cornerstones of JTPA. The highly successful private-public partnership continues, with the Private Industry Councils responsible for the planning and oversight of programs. The system of performance standards also remains an integral part of the revised program.

Second, the proposal improves the targeting of the program on those in substantial need. Targeting is improved by revising the eligibility criteria to help ensure that JTPA serves those with particularly significant barriers to employment. Such barriers include, in addition to economic disadvantage, a lack of basic skills, welfare dependency, and dropping out of school. Targeting is also promoted by revision of the funding formulas to redirect funds to areas with greater numbers and concentrations of the disadvantaged population.

In addition, targeting is enhanced by the new Youth Opportunities Unlimited (YOU) program. This program would target areas with high concentrations of poverty and stimulate community-wide action to establish and meet goals for improving the opportunities for youth residing in those areas. YOU would provide incentives for localities to coordinate programs and would provide as set of activities that would promote long-term employability of youth. The proposal would authorize $25 million for this new program in each of fiscal years 1992 through 1994.

Third, the amendments would enhance program quality by providing more intensive and comprehensive services to participants. Each participant would have an assessment to determine their skill levels, interests, and needs. Service strategies would be developed on the basis of the assessments. These strategies would include achievement objectives for participants to clarify expectations and promote accountability. The programs would make available appropriate sets of services with an emphasis on basic and occupational skills training. This intensive approach is intended to enhance the long-term job market success of participants. Finally, performance standards for the programs would be revised to include basic skills and employment competencies standards to complement the current employment standards and promote long-term employability, job placement and retention.

Fourth, the amendments would promote the coordination of human resource policy and programs. Coordination is encouraged within the revised adult and youth programs by establishing specific requirements for linkages with other programs and entities that would avoid duplication and enhance the delivery of services. In addition, the Act would revise the State Education Coordination Grant program to focus on two areas of critical need: school-to-work transition and adult literacy and lifelong learning. The amendments also provide for establishing a human resource investment council in each State to advise the Governor on methods of coordinating certain federally-assisted human resource programs.

Finally, the amendments incorporate significant changes to strengthen program accountability. These include provisions requiring the Governors to establish and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse. The provisions would also ensure that compliance with the standards is closely monitored and that where problems arise, corrective action is promptly taken or appropriate sanctions are applied. Other provisions, such as those requiring the charging of expenditures to appropriate cost categories and restricting the use of program income, also promote fiscal integrity.

In sum, these amendments provide an important opportunity to make an effective program responsive to demographic trends and the needs of the labor market of the 1990s. Enactment of these amendments would make a significant contribution to enhancing the opportunities available to our most disadvantaged and to improving the skills and productivity of our work force.

I urge the Congress to give the draft bill prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

LYNN MARTIN.

STATEMENT IN EXPLANATION OF THE JOB TRAINING PARTNERSHIP ACT AMENDMENT OF 1991

The Job Training Partnership Act Amendments of 1991 would amend the Job Training Partnership Act (JTPA) to improve the targeting of programs to those facing serious barriers to employment, enhance the quality of services provided, strengthen fiscal and program accountability, and promote the coordination of programs and resources to more effectively provide job training and placement to the disadvantaged.

While JTPA has been an extremely successful employment and training program, these amendments are intended to enhance the program by better focusing its resources to those in substantial need and serving them in a manner that will promote job placement, retention, and long-term employability.

The amendments would improve targeting by revising eligibility requirements to help ensure that those with particularly significant barriers to employment are served. These barriers include a lack of basic skills, welfare dependency, homelessness, disabilities, and lack of a high school (or equivalent) diploma.

Targeting also is enhanced by revision of the funding allocation formula. Separate formulas for the youth and adult programs would be established and the formulas would direct more funds to areas with greater numbers and concentrations of the disadvantaged population.

Finally, the amendments would promote targeting by the establishment of the new Youth Opportunities Unlimited Program. This program would target areas with high concentrations of proverty and stimulate community-wide action to establish and meet goals for improving the opportunities for youth residing in those areas. The program would provide incentives for localities to coordinate service programs and would provide a set of activities that would promote long-term employability of youth.

The amendments would enhance program quality by providing more intensive and comprehensive services to participants. Each participant in the new programs would have an assessment to determine their skill levels and service needs. Service strategies would be developed on the basis of the assessments to address participant needs. These strategies would include achievement objectives for participants to clarify expectations and improve accountability. The programs would make available appropriate sets of services with an increased emphasis on basic and occupational skills training. This intensive approach is intended to enhance the long-term job market success of participants. Finally, the authority for performance standards for the programs would be revised to include basic skills and employment competency standards to complement the current employment standards and promote long-term employability, job placement, and retention.

The amendments would also promote the coordination of human resource policies and programs. Coordination is promoted within the revised adult and youth programs by the establishment of specific requirements for linkages with other programs and enhancing the employment opportunities available to our most disadvantaged and to improving the skills and productivity of our work force.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill provides that this Act is entitled the "Job Training Partnership Act Amendments of 1991."

Section 2 contains the table of contents.

Title I of the bill contains the amendments to JTPA.

Section 101 amends section 2 of JTPA to revise the statement of purpose of the Act. The revision is intended to clarify the intended objectives of the programs provided under JTPA. The revision states that the purpose of JTPA is to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, improved educational and occupational skills, and decreased welfare dependency.

Section 102 amends section 3(a) of JTPA to authorize appropriations for JTPA programs through FY 1997. Currently, JTPA has a permanent authorization. The limited authorization is intended to ensure that the legislation will receive periodic review by the Congress and the Administration.

Section 102 also amends section 3(a) of JTPA to authorize appropriations for the new Youth Opportunities Unlimited program that is added to title IV of JTPA by this bill. The authorization is for $25 million for each of fiscal years 1992 through 1994.

Section 103 amends section 4 of JTPA with respect to definitions. This section of the bill adds the term "basic skills deficient" to the definitions section. The term is defined as reading or computing skills at or below the 8th grade level on a generally accepted standardized test or equivalent score on a

criterion referenced test. This definition is consistent with the definition of the term used in programs under the Adult Education Act and provides a benchmark of a skill level at or below which individuals are likely to experience difficulties in obtaining long-term employment. The term is defined because basic skills deficient is a criterion for eligibility in the new title II programs established by this bill.

The definition of community-based organization is amended to include organizations serving older workers.

The definition of supportive services is amended to include drug and alcohol abuse counseling and referral, and individual and family counseling. These additional services provide important support to many participants to enable them to successfully complete JTPA programs.

The definition of a displaced homemaker is revised to conform to the definition of the term in the recently-enacted Displaced Homemakers Self-Sufficiency Act (P.L. 101-554).

The term "educational agency" is added to the definitions section. The term includes, in addition to the institutions covered by the current definitions of State and local educational agencies, alternative schools and post-secondary institutions. This broader term is needed to include the expanded range of educational institutions that are expected to play an important role in some of the new title II programs.

The terms "participant" and "termination" are included in this section to clarify and establish a uniform definition of these terms for purposes of JTPA.

Finally, the term "school dropout" is added to this section since it would be a criterion for eligibility in the new programs. The definition is based on the definition of this term that is currently contained in section 203(b)(3) of JTPA.

Section 104 amends section 102(a) of JTPA by including representatives of local welfare agencies on the Private Industry Councils (PICs). PICs have a central role in providing policy guidance and exercising oversight of the activities conducted under JTPA. Since a significant proportion of JTPA participants are welfare recipients, it is important that local welfare agencies be added to the PICs. Greater involvement of local welfare agencies would promote closer coordination between JTPA and the Job Opportunities and Basic Skills Training (JOBS) program.

Section 105 amends section 104 of JTPA with respect to the elements included in each service delivery area's job training plan for title II programs. This section reorders the elements contained in current law to group related requirements together and adds some new elements. The new elements include, in section 104(b)(4), a description of the linkages established by the service delivery area with other appropriate agencies and organizations to avoid duplication and enhance the delivery of services under title II programs. Specifically, the plan is to describe such linkages as agreements with educational agencies, arrangements with other federal programs providing education, training and employment services, and efforts to coordinate services with local agencies and organizations. Another new element, contained in section 104(b)(8), includes a description of the assessment process that will identify each participant's skill levels and service needs, the PIC-established competency levels to be achieved by participants as a result of program participation, and the procedures to be used for evaluating the progress of participants in achieving competencies. The items to be described are new elements that would be added to title II programs by this bill.

Section 106 amends section 106 of JTPA to revise the requirements for performance standards. This section would add a provision to current law to provide that the Secretary consult with the Secretaries of HHS and Education in prescribing standards for title II programs.

With respect to the performance standards for the adult program, changes to current law include adding as a basic measure of performance the acquisition of basic and occupational skills. This addition reflects the increased emphasis in the new program on the development of basic skills as a measure of long-term employability. It is intended that this factor would complement the primary adult performance standards of employment and earnings. Therefore, credit for the acquisition of skills is only to be provided where a participant also obtains one of the primary outcomes.

This section adds a new paragraph to the performance standards section providing that the levels for competency standards are to be determined by the PIC, in consultation with educational agencies and private sector employers, and based on such factors as entry skill levels and other hiring requirements.

Another addition is a provision, which replaces section 202(b)(3) of current law, that each Governor is to award incentive funds to service delivery areas (SDAs) for achieving the performance standards for title II programs. Under this amendment, the award is not to take into consideration cost standards and is to include the standards established by the Secretary and the Governor and may also include other factors designated by the Governor, such as the extent to which target groups are served successfully, the quality of services, and the extent of coordination with other programs.

Section 107 would amend section 107 of JTPA by adding a new subsection to provide that the selection of service providers be made on a competitive basis to the extent practicable. The subsection also adds that, in selecting service providers, the entity administering the job training plan is to consider the ability of potential providers in meeting program design requirements and accomplishing the goals contained in the Governor's Coordination and Special Services Plan. Finally, the subsection requires documentation of compliance with procurement standards established by the Governor. These measures are intended to improve accountability in the selection process.

Section 108 amends section 108(a) of JTPA to require, with a limited exception, that all expenditures under the Act be charged to appropriate cost categories. This amendment would promote increased accountability.

Section 108(b) is amended to establish new cost categories and cost limitations for programs under title II. All funds expended under parts A and B of title II would have to be charged to one of three cost categories: administration, training-related and supportive services, or direct training services. The Secretary is directed to define each of these categories by regulation.

Not more than 20 percent of the funds available to a service delivery area for any fiscal year are to be for administrative expenses. The increase in the administrative cost limit from 15 to 20 percent is in consideration of the additional administrative expenses that will be incurred due to the need to coordinate additional services for a more at-risk clientele, and the imposition of more stringent requirements to protect the fiscal integrity of the program.

Not less than 50 percent of the funds available to a service delivery area must be spent on direct training services. This requirement is intended to ensure that the focus of the program is on direct job training that will enhance long-term employability.

Section 109 amends section 121(b) of JTPA to require that some additional elements be included in the Governor's Coordination and Special Services Plan. One new element would be a description of measures taken by the State to facilitate coordination and avoid duplication between JTPA programs and JOBS in the delivery of services. Another new element would be a description of the State's efforts to build the capacity of the job training system, including the Governor's plans for technical assistance arrangements and, where appropriate, research and demonstration projects.

Section 110 would amend section 122 of JTPA to redesignate the State job training coordinating council (SJTCC) as the State human resource investment council. This council, which is established under title II of these amendments, would have the same responsibilities with respect to JTPA as the current SJTCC. The council is intended to facilitate improved statewide coordination of certain federally-assisted human resource programs, and its broader functions are described in the explanation of title II.

Section 111 amends section 123 of JTPA to revise the State Education Coordination Grant program. Under the revised program, funds provided under this section are to be used by the Governor to provide financial assistance to State education agencies to: provide school-to-work transition programs that will increase the rate of graduation from high school, including the rate at which dropouts return to school and graduate; provide adult literacy and lifelong learning opportunities that will enhance the knowledge and skills of educationally and economically disadvantaged individuals and increase their employment and earnings; and facilitate coordination of services to participants in such programs.

As in current law, activities are to be conducted pursuant to agreements between the State education agency and SDAs, and other agencies such as State and local agencies, and alternative service providers. The agreements are to provide for matching funds on a one-to-one basis.

The revised section would provide that the Governor describe, in the GCSSP, the programs to be carried out. The Governor is to describe the goals to be achieved and services to be provided by school-to-work transition programs, including: activities and services that will result in increasing the number of youth graduating from high school; the work-based curriculum that will link classroom learning to worksite experience and address practical and theoretical aspects of work; the opportunities that will be available for participants to obtain career-path employment and postsecondary education; and integration of service delivery that will be achieved between State and local education agencies and alternative service providers (such as CBOs); and the linkages that will be established with other Federal education programs to enhance the delivery of services.

The GCSSP is also to contain a description of the goals to be achieved and services to be provided by the adult literacy and lifelong

learning program, which, at a minimum, is to include: the activities and services that will increase the knowledge and skills of participants and result in increasing their employment and earnings; the integration to be achieved between these programs and the four-year State plan developed under section 342 of the Adult Education Act; the variety of settings in which services will be provided, including the workplace; and the linkages that will be established with other Federal education and training programs.

Services provided under these programs may include education and training, vocational education, and JTPA title II services. Services may also be targeted to groups whom the Governor determines require special assistance, such as offenders and veterans.

Not more than 20 percent of the funds expended may be spent on coordination of services, and not less than 80 percent is to be used to carry out the school-to-work transition and adult learning activities. As in current law, not less than 75 percent of the funds expended for participant services is to be used for economically disadvantaged individuals.

If the State education agency is unable to reach agreement with the SDAs and other agencies to carry out these programs, the Governor is to award the funds to SDAs as part of the incentive grants for exceeding performance standards as described in the new section 106(b)(7).

Finally, the revised section authorizes the Secretary to establish reporting and recordkeeping requirements.

These revisions are intended to increase the impact of the State Education Coordination Grant program by focusing on two areas of critical need: school-to-work transition and adult literacy and learning. The revisions would enhance the quality of programs conducted under this section and promote coordination at the State level through inclusion of the program in the GCSSP.

Section 112 repeals section 124 of JTPA, which provides for training programs for older individuals. The older worker program is eliminated because the needs of such workers would better be addressed through the revised adult program under title II, which includes a new requirement that 5 percent of each service delivery area's funds be spent on persons age 55 and over.

Section 113 amends section 141 of JTPA relating to general program requirements. The bill amends section 141(d)(3) to add a new subparagraph which states that a breakdown of cost does not have to be performed for tuition charges for training and education provided by postsecondary education institutions and colleges if such charges do not exceed the charges made available to the general public. This provision, and the current law provision that no breakdown is required where commercially available training packages are available for off-the-shelf prices, are the only situations under title II where expenditures would not have to be charged among the categories provided in section 108.

This section also amends section 141(g) of JTPA to provide that on-the-job training authorized under the Act be limited in duration to a period generally required to develop the particular occupational skill, but in no event is to exceed 6 months. In determining the appropriate period, consideration is to be given to recognized reference materials (such as the Dictionary of Occupational Titles), the content of the training, the participant's prior work experience, and the participant's service strategy. In addition, the section specifies the procedures which must be used when a brokering contractor is used for on-the-job training placements.

This section amends section 141(m) to clarify that net income earned by a public or private nonprofit entity from a JTPA program may only be retained if it is used to continue to carry out the program, and adds that, as under current law, such use is permitted even if financial assistance for the program has expired. This amendment also provides a definition of income and requires that each entity maintain records sufficient to determine the amount of income received and how such income is expended.

Finally, this section also makes applicable to JTPA programs the general Federal guidelines relating to the title, use and disposition of real property, equipment and supplies.

Section 114 amends section 142 of JTPA to provide that the minimum compensation payable to JTPA trainees in Puerto Rico and American Samoa shall be the minimum wage rates under the Fair Labor Standards Act generally applicable to these jurisdictions, rather than the higher "mainland rate". This would address the anomalous situation created by current law where JTPA trainees must be paid a higher wage than the minimum wage protection generally afforded to workers in these jurisdictions.

Section 115 amends section 164(a) to require the Governor to establish such fiscal control and fund accounting procedures as are necessary to assure the disbursal of, and accounting for, Federal JTPA funds. Such procedures must be consistent with the Generally Accepted Accounting Principles applicable in each State.

The section revises the procurement standards under JTPA. This amendment would require the Governor to establish certain minimum standards for JTPA programs to improve fiscal accountability. The standards prescribed by the Governor are to ensure that procurements are competitive to the extent practicable, and are in accordance with written procedures for procurement transactions. In addition, the standards are to ensure that all procurements include an analysis of the reasonableness of costs and prices, that all deliverables and the basis for payment are specified in the contract, and that there is no conflict of interest in the selection, award or administration of a contract or grant. The standards also must ensure that procurements do not provide excess program income for nonprofit or governmental entities, or excess profit for private for-profit entities. Recipients are to conduct oversight to ensure compliance with procurement standards.

The section requires that Governors annually conduct on-site monitoring of each service delivery area and substate area to ensure compliance with the procurement standards. If the Governor determines that an area is not in compliance with the procurement standards, the Governor must require corrective action or impose specified sanctions if corrective action is not taken.

The procurement standards established by the Governor must be submitted to the Secretary, and the Governor must biennially certify to the Secretary that the standards meet the Act's requirements that the State has monitored service delivery areas and substate areas to ensure compliance with the procurement standards, and that the State has taken appropriate action in instances of noncompliance with the standards. If the Governor does not fulfill the specified requirements, the Secretary must require corrective action or impose sanctions.

Finally, this section revises the current law provision that provides that the Governor may revoke approval of part or all of the job training plan where there is substantial violation of a specific provision of the Act or regulations and no corrective action has been taken. The revision would provide that, unless corrective action is taken, the Governor must either revoke approval of part or all of the plan or impose a reorganization plan, which may include restructuring the PIC, prohibiting the use of a designated service provider, selecting an alternate administrative entity, or other appropriate changes. This revision would improve the effectiveness of the sanctions available to ensure compliance with the requirements of JTPA programs.

Section 116 amends section 165(a) of JTPA to require that JTPA fund recipients maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate random sample. This requirement is necessary for the preparation of national programmatic and financial data. This section amends section 165(c) of JTPA to further enhance accountability by adding a requirement that States, administrative entities conducting the program, and recipients (other than sub-recipients) monitor the performance of service providers in complying with the terms of agreements made pursuant to JTPA. This section also requires the retention of records at each administrative level of a minimum of three years following the expiration of the grant.

Section 117 amends part A of title II of JTPA to establish the new Adult Opportunity Program.

Section 201 of JTPA is amended to state that the purpose of the adult program is to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills with the result of improving their long-term employability, increasing their employment and earnings, and reducing their welfare dependency.

Section 202 of JTPA is amended to provide a new formula for the allotment of funds under the adult program. The current formula under title II-A does not sufficiently target resources to the eligible economically disadvantaged adult population. Under the current formula, two-thirds of the funds are allotted based on the share of unemployment in an area rather than on the extent or concentration of the economically disadvantaged population in that area. The result has been that local SDAs may not receive funds in proportion to their share of the eligible population. In addition, because unemployment rates can fluctuate, the allotments have been subject to large annual variations which have hampered the local PICs' ability to engage in long-term planning or to build strong service delivery capacity. This bill revises the formula to improve targeting of the eligible population, promote equitable funding of SDAs which have the same number of the disadvantaged, and stabilize funding to enhance local planning.

Subsection (a) of the amended section 202 of JTPA retains a small percentage of funds for certain areas, including the U.S. territories.

Section 202(b) is amended to require the Secretary to reserve 5 percent of the remaining funds for the State Education Coordination Grant program.

Section 202(c) provides that after determining the amounts allotted under subsections (a) and (b), 89 percent of the remain-

der is to be allotted by the Secretary to the States for allocation to SDAs. The amount of each SDA allocation would be determined by the Secretary in accordance with the following formula: 45 percent would be allotted on the basis of the relative number of unemployed individuals in each SDA as compared to the number of such individuals in *all* SDAs; 30 percent would be allotted on the basis of the relative number of economically disadvantaged adults in each SDA; and 25 percent is to be allotted on the basis of the relative concentration of economically disadvantaged adults in each SDA.

A significant feature of this formula is that it is based on relative numbers of eligible individuals among all SDAs in the country rather than among SDAs within States or among States. This approach ensures that SDAs with the same number of eligible adults received equal allotments and that funding does not vary simply because the SDAs are located in different States.

This section also includes provisions that no SDA will receive less than 90 percent or more than 130 percent of its previous fiscal year's allotment percentage. These provisions promote funding stability and enable improved planning of programs. This section also includes a provision, to protect small States, that no State will receive less than one quarter of one percent of the total allotment.

Section 202(d) is amended to provide for the allotment to the States of the remaining 11 percent of the funds available for distribution by the Secretary to carry out certain purposes. Five-elevenths of the remainder is to be allotted to the States to carry out administrative activities, the Governor's coordination plan, and for the State council (this is consistent with the 5 percent set-aside for such activities under the current II-A formula); three-elevenths is to be allotted for developing the overall job training system capabilities within the State, including training to service delivery area staff; and three-elevenths is to be allotted for incentive grants authorized under the performance standards section. Under the current title II-A formula, there is a State set-aside for performance incentive grants to SDAs and unused grant funds may be used by the Governor for technical assistance to SDAs. These amendments would provide separate set-asides for these two functions. The Secretary is to allot these funds based on the relative amount of funds available to SDAs within the State as compared to the total amount of funds available to all SDAs in all States. There is a proviso that the allotment to the States for administration is to be adjusted to ensure that no State receives less than $450,000 under this title to carry out administrative activities.

Section 203 is amended to provide the new eligibility requirements for the adult program. Section 203(a) provides as general eligibility requirements that an individual must be 22 years of age or older and economically disadvantaged. Section 203(b) provides that at least 65 percent of the participants in each SDA, in addition to meeting the general eligibility requirements, must also be included in one or more of the following categories: basic skills deficient; school dropouts; AFDC recipients in a target group under the JOBS program or who have received an employability plan under JOBS; unemployed for the previous 6 months or longer; individuals with disabilities; homeless; or a category established by the service delivery area in accordance with guidelines promulgated by the Secretary. The additional category must be approved by the Governor and described in the Governor's Coordination and Special Services Plan. The categories specified in this subsection are intended to identify individuals who are likely to need assistance to enhance their employability and who would realize long-term benefits from JTPA services.

Section 203(c) retains the current "window" that allows 10 percent of the participants to be individuals who are not economically disadvantaged if such individuals experience other barriers to employment.

Section 203(d) requires that service delivery areas make special efforts to serve eligible individuals who are 55 years of age or older and spend not less than 5 percent of their funds on such individuals. If an SDA does not spend 5 percent of its funds on eligible individuals who are 55 years or older in any program year, funds are to be recaptured by the Governor for reallotment to other SDAs to provide services to such individuals. The subsection also requires that the State human resource investment council and SDA make special efforts to coordinate the delivery of JTPA services to those age 55 and over with services under title V of the Older Americans Act (the Senior Community Service Employment Program). Finally, the subsection requires SDAs, in selecting service providers to serve older individuals, to give priority to those national, State, and local agencies and organizations that have demonstrated effectiveness in providing training and employment services to older individuals.

Section 204 is amended to establish the program design for the new adult program.

Section 204(a) provides certain features that are to be included in all adult programs under part A. First, the program is to include an assessment of each participant's skills, interests, and service needs. A new assessment is not required if the program determines it is appropriate to use a recent assessment conducted by another program. Second, the program is to develop service strategies that identify the employment goal, achievement objectives and the services to be provided to participants, taking into account the assessment. Third, the program is to review each participant's progress in meeting the objectives of the service strategy. Fourth, where the assessment of a participant and service strategy indicates it is appropriate, the program is to make available basic and occupational skills training. These elements are essential to ensure that the services provided address problems that would hamper the long-term employability of participants. It should, however, be noted that the service strategy is not intended to be a contract and these provisions do not create an entitlement for participants.

Section 204(b) provides a list of services which may be provided under the adult program. The list is divided into the categories of direct training services and training-related and supportive services to clarify how expenditures for such services would be charged under the cost limitation requirements contained in section 108 of JTPA. The 28 services listed are not intended to be exhaustive, but suggest the kinds of services that may enhance the development of skills and employability of adult participants. Most of these services are included under current law. The list includes various training activities, such as on-the-job training, programs combining workplace training and classroom instruction, and such training-related services as job search skills training and placement assistance, and counseling, and supportive services.

Section 204(c) imposes limitations on some of the services authorized under this part. Basic skills training is, where appropriate, to have a workplace context and be integrated with occupational skills training. The provision of job search, job search skills training, job clubs, and work experience are to be accompanied by other services designed to increase a participant's basic education or occupational skills. There is an exception to this limitation whereby job search assistance, job search skills training and job club activities may be provided as "stand-alone" services if the assessment and service strategy indicates that no additional services are appropriate *and* the activities are not available through the Employment Service or other public agencies. Needs-based payments, as under current law, are to be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure. Counseling and supportive services are authorized to be provided for a period of up to one year after program completion. This allows provision of these important follow-up services that are often needed to ensure a participant's effective transition to employment. However, it is expected that employers would quickly assume the responsibility for employment-related counseling. This subsection would also limit the use of funds for employment generating activities to activities that directly result in the creation of jobs for participants in the program. Finally, service delivery areas are to make volunteer opportunities available to successful JTPA alumni to provide mentoring and other such services to participants.

Section 205 is amended to provide the linkages that are to be established in conducting the adult program. Linkages with other programs and entities will enhance the range, quality, and effectiveness of services provided under the program and is therefore an essential component. This section identifies some of the most important programs and activities. Section 205(a) is amended to provide that linkages are to be established, where feasible, with other Federal programs. The listed programs include programs under the Adult Education Act, the Perkins Vocational Education and Applied Technology Act, and JOBS.

Section 205(b) is amended to provide that additional linkages are to be established that would enhance the provision of services with such entities as State and local educational agencies; community, business and labor organizations; and volunteer groups.

Section 206 would allow a service delivery area to transfer up to 10 percent of the funds available for adult programs to the youth program under part B if certain conditions are met. Those conditions are that the transfer is based on economic and labor market conditions specified by the Secretary in regulations to be sufficient to warrant a transfer, that the transfer is described in the job training plan, and that the transfer is approved by the Governor. Such transfers are also to be described in the GCSSP. It is not intended that such transfers occur except in unusual economic circumstances.

Section 118 amends part B of title II of JTPA to establish the new Youth Opportunity Program.

Section 251 of JTPA is amended to revise the purposes of the youth program. The purposes include improving the long-term employability of youth, enhancing their educational and occupational skills, encouraging school completion or enrollment in alternative school programs, increasing the em-

ployment and earnings of youth, reducing welfare dependency, and assisting youth in addressing problems which impair their ability to make successful transitions from school to employment or advanced education or training programs.

Section 252 is amended to revise the allotment formula to improve the targeting of resources to eligible economically disadvantaged youth. Since the current II-B formula is the same as the current II-A formula, it shares the problems described in the explanation of the amended section 202. Those problems include lack of sufficient weight to the number of disadvantaged youth residing in an SDA and instability in funding due to reliance on unemployment rates.

The revised funding formula for the youth program is similar to the revised adult formula. There is a set-aside for certain areas, including U.S. territories, and a five percent set-aside for the State Education Coordination Grant program. Of the remainder, 89 percent is allotted to SDAs, with 33⅓ percent allotted on the basis of the relative number of unemployed individuals in each SDA, 33⅓ percent allotted on the basis of the relative number of economically disadvantaged youth within each SDA as compared to the total number of such youth in all SDAs, and 33⅓ percent allotted on the basis of the relative concentration of economically disadvantaged youth in each SDA. This formula improves targeting on SDAs with the greatest need.

This section also includes a 90 percent "hold harmless" and, a 130 percent "stop gain" provision to ensure funding stability and improve local planning. It also includes a minimum total allotment which protects small States. For purposes of this section the Secretary is to exclude, where feasible, college students and members of the armed forces from determinations of the number of economically disadvantaged youth and the size of the youth population in each SDA.

The remaining 11 percent of the funds are to be allocated among the States in the same manner and for the same purposes as the adult formula (i.e., five-elevenths for administration, three-elevenths for capacity building, for performance incentives.)

Section 253 is amended to provide new eligibility requirements. Section 253(a) is amended to provide the requirements for in-school youth. An individual who is in school is eligible if first, such individual is aged 16 through 21 or, if provided in the job training plan, 14 through 21; and second, such individual is economically disadvantaged, is receiving a free lunch under the National School Lunch Act, or participates in a Chapter 1 compensatory education program.

Section 253(b) provides that not less than 65 percent of in-school participants must be individuals who, in addition to meeting the first two requirements, are included in one or more of the following categories: basic skills deficient, educational attainment more than one grade level below the level appropriate for the individual's age, pregnant or parenting (including fathers), individual with disabilities (including a learning disability), homeless, or a category established by the SDA that is in accordance with guidelines promulgated by the Secretary and approved by the Governor.

Under the amended section 253(c), individuals who are out of school are eligible for the youth program if they are aged 16 through 21 and economically disadvantaged. Section 253(d) provides that not less than 65 percent of out-of-school participants must, in addition to meeting the first two requirements, be either basic skills deficient, a school dropout, pregnant or parenting, disabled, homeless, or meet a category established by the SDA. Section 253(e) provides that not more than 10 percent of youth who participate in the program may be individuals who are not economically disadvantaged if they face other serious barriers to employment.

Section 253(f) provides that at least 60 percent of the participants in the youth program in each SDA must be out-of-school youth who meet the requirements of subsections (c), (d) or (e). However, this minimum percentage may be reduced to a lower minimum requirement (not less than 40 percent) if the Governor approves a request submitted by an SDA which specifies an alternative requirement and justifies the alternative based on characteristics of the youth population in the SDA. This is intended to be a limited exception appropriate to circumstances, such as an exceptionally low dropout rate, which results in a lower proportion of out-of-school youth who could benefit from the program in an SDA.

Section 254 is amended to provide the design for the youth program. Section 254(a) provides that the youth program is to be conducted on a year-round basis.

Section 254(b) is amended to provide that the program includes an assessment of each participant's skill levels and service needs, development of service strategies which identify achievement objectives, appropriate employment goals and services to be provided, and a review of each participant's progress in meeting the objectives of the service strategy.

Where the assessment and the service strategy indicate such services are appropriate, the youth program is to make available to participants the following services: basic skills training, occupational skills training, pre-employment and work maturity skills training, work experience combined with skills training, and supportive services. As indicated above with respect to the adult program, the service strategy is not to be considered a contract and these provisions do not create an entitlement for participants.

Section 254(c) is amended to provide a list of services which may be provided under the program. These services include, in addition to the services authorized for the adult program, mentoring, tutoring, study skills training, instruction for high school completion or certificate of high school equivalency, and limited internships in the private sector.

Other services listed include alternative high schools jointly established or supported with educational agencies and school-to-work, apprenticeship or postsecondary education transition services.

This list, which is not exhaustive, provides for a comprehensive set of services that is intended to address the multiple barriers to employment often experienced by at-risk youth.

Section 254(d) contains certain conditions relating to the program. First, in developing service strategies and designing services, the SDAs and PICs are to take into consideration exemplary program strategies and practices. It is intended that this condition will promote effective planning.

Second, school dropouts who are under the age of 18 must reenroll in and attend a school or alternate school program as a condition of participation.

Third, pre-employment and work maturity skills training are to be accompanied by either work experience or by additional basic or occupational skills training.

Fourth, work experience, job search assistance, job search skills training and job clubs activities are to be accompanied by basic or occupational skills training.

The third and fourth conditions requiring combinations of services are intended to ensure the kind of intensive training that will enhance the long-term employability of youth participants. Under these conditions, the additional services may be provided, sequentially or concurrently, under other programs. Such programs may include the Job Corps and JOBS. This provision is intended to promote coordination between programs and flexibility in determining how these services are to be delivered.

A fifth condition is that needs-based payments are to be determined in accordance with a local formula as under current law. Finally, this subsection authorizes the provision of counseling and supportive services for a period of up to one year after a participant has completed the program and provides that volunteer opportunities are to be made available to successful alumni of this program to provide services, such as tutoring, to participants.

It should be noted that this section does not prohibit the provision of summer work experience to participants. However, such work experience would have to be one part of a youth's service strategy and accompanied by additional education or training in a year-round program.

Section 255 is amended to provide for linkages between SDAs and other entities and programs to ensure the effective, comprehensive, and coordinated delivery of services under the youth program.

Section 255(a) required that SDAs establish linkages with educational agencies. These linkages are to include formal agreements with local educational agencies that will identify the procedures for referral and provision of services to in-school youth, the methods of assessment of in-school youth, and procedures for notifying the program when a youth drops out of the school system. Other linkages with educational agencies are to include arrangements to ensure that the program supplements existing programs provided by local educational agencies to in-school youth, arrangements to ensure that the program utilizes existing services provided by local educational agencies to out-of-school youth, and arrangements to ensure regular exchanges of information between the program and local educational agencies regarding the progress of in-school participants.

Under the design of the youth program, educational agencies will play a key role. The linkages described above are intended to ensure the coordination of those agencies and of existing programs with the program under part B.

Section 255(b) provides that SDAs shall also establish appropriate linkages with other Federal programs such as the Job Corps, vocational education programs, chapter 1 compensatory education programs, special education programs and JOBS.

Section 255(c) provides that linkages which would enhance the delivery of services under the youth program should also be established with other agencies and organizations, such as local service agencies, business and labor organizations, and volunteer groups.

Section 256 allows for a transfer of up to 10 percent of funds from the youth program to the adult program under part A if the same conditions governing transfers from the adult to the youth program are met (i.e., sufficient economic conditions and approval of the Governor).

Section 119 amends section 314(f) of JTPA to provide that participation in training, except for on-the-job training, under the Title III dislocated worker program is to be deemed to be approved training for purposes of the unemployment compensation (UC) program. This amendment would facilitate coordination between Title III and the UC program by providing Title III training is to be deemed approved by the State agency. A similar provision was part of Title III until the revision of the dislocated worker program by the Omnibus Trade and Competitiveness Act (OTCA). The Conference Report for OTCA (House Rept. 100-576, p. 1030) indicated that the approved training rule was to be included in Title III, but the provision did not appear in the final text of the Act.

Section 120 of the bill amends section 427(a)(2) of the JTPA to increase the ceiling on the proportion of non-residential slots in the Job Corps program from 10 percent to 20 percent. The increase is intended to promote increased access to the program by disadvantaged young women who have small children and are therefore unable to participate in the residential program.

Section 121 establishes the Youth Opportunities Unlimited Program as a new part H of title IV of JTPA. The purposes of the program, as described in the section 491, include enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community, and facilitating the coordination of comprehensive services to such youth.

Section 492 authorizes the establishment of a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas. The Secretary may only award grants to service delivery areas in which the target area is located, or to section 401 (Indian and Native American Program) or section 402 (Migrant and Seasonal Farmworker Program) grantees.

Grants may be awarded to not more than 25 communities during the first year of authorization. The one-year grants are renewable for each of the 2 succeeding years if the grant recipient satisfied the grant requirements during the previous year. In awarding grants, the Secretary must consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support, and the concentration of poverty in the target community.

The new section 493 provides definitions of the terms for purposes of this part. "Participating community" is the city, State, or Section 401 or 402 grantee in which the program will be administered. "High poverty area" refers to an urban census tract, Indian reservation or Alaskan native village, or rural county with a poverty rate of 30 percent or more. Finally, "target area" is defined as the high poverty area or set of contiguous high poverty areas within the participating community that will be the focus of the program.

The new section 494 sets forth the requirements for applying for funds under the program. The participating communities with the highest concentrations of poverty, as determined by the Secretary based on the Census data, are eligible to apply. The Governor, or, for Native American and migrant worker communities, the section 401 or 402 grantee, may submit an application in accordance with procedures specified by the Secretary. The application is to include a comprehensive plan designed to achieve goals for youth in the target area. Examples of such goals, which are to be specified in the plan and measurable, include increasing the proportion of youth completing high school or entering community colleges and other advanced training programs, or placed in jobs. Significantly, the plan is to include supporting goals for the target area such as increasing security or reducing the number of drug-related arrests. In addition, the application is to demonstrate how the participating community will make use of educational and vocational resources, include an estimate of the number of youth to be served, include a description of resources available in the participating community which will be used to achieve the goals of the program, and provide evidence of local community support.

The new section 495 provides for the grant agreement. Under such agreement, the grant recipient is to designate a target area with a population of 25,000 or less. The grant funds are to be used to provide activities selected from a set of youth program models designated by the Secretary or alternative models described in the application and approved by the Secretary. Examples of such models include non-residential learning centers, alternative schools, and combined summer remediation, work experience and work readiness training.

Other conditions identified in this section are that funds are to be used for services to youth ages 14 through 21, that the local educational agency and the community are to provide activities and local resources necessary to achieve the supporting goals that are specified in the application; the participating community is to provide such activities and resources as are necessary to achieve the goals in the application; the participating community is to carry out special efforts to establish coordination among Federal, State or local programs serving the target population; and the funds are to be used only to pay the Federal share of the cost of programs and services not otherwise available in the target area, and are to supplement, and not supplant, other Federal, State and local funding.

Section 496 specifies that grants (except for section 401 and 402 grantees) are to be in equal amounts. The participating community must match one-for-one the grant provided under this part. Not more than 25 percent of the participating community's share may be from Federal sources other than funds received under this part.

Section 497 authorizes the Secretary to establish necessary reporting procedures.

Finally, section 498 requires the Secretary to provide assistance to the participating communities in implementing the program. The Secretary is authorized to retain up to 10 percent of the funds allotted for this part to provide such assistance and to conduct a formal, rigorous evaluation of the program.

This important new program offers a means to assist communities in developing a coordinated, comprehensive strategy to address the needs of youth.

Section 122 provides technical and conforming amendments.

Section 123(a) provides that the amendments made by this title shall take effect July 1, 1992. Section 123(b) contains a transition provision that provides that changes in performance standards pursuant to the amendments made by the Act shall be issued as soon as sufficient data are available, but no later than July 1, 1994.

In addition, section 123(c) requires that the secretary provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of Title II. The purpose of this guidance is to limit the documentation burden to the minimum necessary to adequately verify eligibility, and ensure that the documentation burden does not discourage participation of eligible individuals. This guidance must be provided by February 1, 1992.

Section 123(d) provides that the Secretary evaluate the impact of Title II programs, as amended by this bill, on participant employment, earnings, and welfare dependence, in multiple sites using random assignment.

Finally, section 123(e) contains a general transition provision allowing the Secretary to establish necessary rules and procedures to provide for an orderly transition to and implementation of these JTPA amendments.

Title II provides for the establishment of a human resource investment council in each State. The council would promote Statewide coordination of certain federally-assisted human resource programs by replacing separate existing state councils with a single State advisory body.

The State human resource investment council would advise the Governor regarding programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, JTPA, the Rehabilitation Act of 1973, the Wagner-Peyser Act, JOBS, and section 6(d)(4) of the Food Stamp Act of 1977 (the Food Stamp Employment and Training Program). Under current law, there is no State advisory council for programs under the Rehabilitation Act, JOBS, and the Food Stamp Act. There are separate State councils authorized for programs under each of the other Acts.

Section 201(a) provides that each State that receives assistance under the applicable federal programs would establish a single State council to review the provision of services and use of resources and advise the Governor on methods of coordinating the programs. The council would also provide advice to the Governor on the development and implementation of State and local standards and measures relating to the programs.

Section 201(b) provides that the membership of the Council is to be appointed by the Governor with 30 percent appointed from representatives of business and industry, 30 percent from representatives of organized labor and community-based organizations, 20 percent from chief administrative officers in State agencies administering the applicable programs and other representatives of State entities, and the final 20 percent from representatives of local governments, local educational, and welfare agencies, and individuals with special expertise.

Subsections (c) and (d) of this section authorize the council to prepare a budget, to be approved by the Governor, and to obtain the services of personnel to carry out its functions. Subsection (e) provides that the State certify to the Secretary of Labor the establishment and membership of the council 90 days before the submission of a job training plan under JTPA. Subsection (f) lists the applicable programs under the council's jurisdiction, which were described above.

Section 202 contains conforming amendments to each of the Acts which authorize the applicable programs. These amendments clarify the duties of the council with respect to each Act and provide for coordination of the programs by the council.

Section 203 provides that the effective date for this title is July 1, 1992.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. HOLLINGS):

S. 1405. A bill to authorize appropriations for certain programs of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. KERRY. Mr. President, I rise today to introduce a bill to reauthorize the programs of the National Oceanic and Atmospheric Administration.

NOAA performs many important services for the Nation. NOAA's National Ocean Service manages the Nation's ocean and coastal resources and charts our skies and oceans. The National Weather Service forecasts our weather and provides hurricane warnings. The National Marine Fisheries Service has the very difficult task of managing and conserving the Nation's fisheries. The Office of Oceanic and Atmospheric Research helps us understand our atmospheres, oceans, and marine resources. And finally, Mr. President the National Environmental Satellite, Data, and Information Service manages the Earth-observing satellite systems that support weather forecasting and provide us with land remote-sensing capabilities.

In addition to reauthorizing these very important programs, this bill addresses several specific needs that I would like to highlight.

This bill would allow NOAA to begin modernizing its oceanographic fleet. This fleet of 23 vessels, comprising about one-third of the total U.S. oceanographic fleet, is nearing its service life. The average age of the vessels is now over 25 years and much of the equipment on board has not kept pace with modern technology for such activities as mapping the oceans or detecting global change. Furthermore, 6 of the 23 vessels have been deactivated due to aging.

The condition of the fleet seriously limits NOAA's ability to carry out its research and monitoring responsibilities. A 1990 report of an interagency science and engineering group estimated that NOAA programs need about twice as much vessel time to carry out their missions. The Administration is completing a plan for revitalizing the fleet. This bill would allow NOAA to begin this modernization effort.

Americans continue to be concerned about waste disposal, sewage pollution, toxic chemicals, and oilspills in marine waters. A recent report by the National Research Council calls for increasing the use of monitoring information for marine environmental management, conducting comprehensive monitoring of regional and national status and trends, and improving the design of monitoring programs.

The bill I am introducing today would create a national monitoring program for ocean and coastal waters to assess current conditions as well as detect changes. This comprehensive program would coordinate and enhance existing efforts of Federal, State, and local agencies, which currently spend an estimated $133 million monitoring the condition of the marine environment. NOAA has been particularly active in this effort through its National Status and Trends Monitoring Program which collects information at 180 marine sites around the Nation.

Monitoring is particularly useful for assessing the effectiveness of pollution control efforts. Massachusetts residents, for example, are about to spend in excess of $6 billion to clean up Boston Harbor. This is an unprecedented cleanup effort and it is in the Nation's interest to determine what will be achieved in terms of water quality improvements for this large expenditure.

Finally, this bill authorizes NOAA to research and develop dolphin-safe fishing technologies for harvesting tuna. The number of dolphins killed each year by the foreign tuna fleet is still unacceptably high. This is a serious concern from both an environmental and foreign policy perspective. It is clear that the best way to stop this unnecessary slaughter is to develop new fishing methods that are not dependent on encircling dolphins.

The National Oceanic and Atmospheric Administration provides many valuable services to the Nation and I am pleased to introduce this bill to reauthorize its many important programs. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. For the purposes; of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $313,034,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. (a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $209,787,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) CONTINGENT LIABILITY.—In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriations Acts.

CLIMATE AND AIR QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,801,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a) of this section, $78,000,000 for fiscal year 1992 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $47,399,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall

be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $373,907,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) SEARCH AND RESCUE SATELLITE SYSTEM.—Of the sum authorized under subsection (a) of this section, $2,300,000 in fiscal year 1992 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

DATA AND INFORMATION SYSTEMS

SEC. 106. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $35,317,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $51,087,000 for fiscal year 1992.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $58,273,000 for fiscal year 1992;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992.

(c) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof $52,843,000 for fiscal year 1992";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,869,000 for fiscal year 1992"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$15,585,000 for fiscal year 1992".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(c) Of the sums authorized under subsection (a) of this section, $1,000,000 for fiscal year 1992 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

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

(3) for aquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

TITLE IV—MISCELLANEOUS PROVISIONS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, $72,105,000 for fiscal year 1992.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—(1) There are authorized to be appropriated to the Department of Commerce for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $12,753,000 for fiscal year 1992.

(2) The Secretary shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

(c) MARINE SERVICES.—(1) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,573,000 for fiscal year 1992.

(2) There are authorized to be appropriated to the Department of Commerce to enable

the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1992.

(3)(A) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,500,000 for fiscal year 1992 for the reactivation and operation of the research vessel ALBATROSS IV.

(B) If on the date of enactment of this Act the research vessel ALBATROSS IV is not in active service, the Secretary of Commerce, subject to the availability of appropriations under this paragraph, shall reactivate that vessel.

(4) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate any research vessel of the National Oceanic and Atmospheric Administration, including the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(5)(A)(i) Except as provided in clause (ii), no vessel to be constructed for the National Oceanic and Atmospheric Administration, and no major component of the hull or superstructure of such a vessel, may be constructed in a foreign shipyard.

(ii) The President may authorize exceptions to the prohibition in clause (i) if the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to the Congress of that determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date such notice is received by the Congress.

(B)(i) A vessel of the National Oceanic and Atmospheric Administration the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

(ii) Clause (i) does not apply in the case of voyage repairs.

(6) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken to ensure that vessels of the National Oceanic and Atmospheric Administration are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(d) NOAA, FLEET MODERNIZATION.—(1) In addition to amounts authorized by subsection (c), there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992 modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(2) Not later than October 1, 1991, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(3)(A) Subject to subparagraphs (B), (C), and (D), and notwithstanding section 1341 of title 31, United States Code, and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(B) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to paragraph (2).

(C) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the Secretary finds with respect to that contract that—

(i) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(ii) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(D) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision which specifies the term of effectiveness of the contract;

(iii) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts which were appropriated, before the date of the termination, for the performance of the contract or for procurement of the type of acquisition covered by the contract and which are unobligated on the date of the termination.

(e) MARITIME FINANCING.—Section 607(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177(k)), is amended—

(1) in paragraph (1)(C) by striking "States or in the fisheries of the United States." and inserting in lieu thereof "States, the fisheries of the United States, or under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration."; and

(2) in paragraph (2)(C) by striking "or noncontiguous domestic trade or in the fisheries of the United States." and inserting in lieu thereof "noncontiguous domestic trade, fisheries of the United States, or under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration.".

(f) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,900,000 for fiscal year 1992.

REQUIREMENT OF NOTICE OF REPROGRAMMING

SEC. 402. The Secretary of Commerce shall not reprogram an amount appropriated under the authority of this Act unless, before carrying out that reprogramming, the Secretary provides notice of that reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology of the House of Representatives.

TITLE V—COASTAL MONITORING

SHORT TITLE

SEC. 501. This title may be cited as the "Marine and Coastal Monitoring Act of 1991".

PURPOSE

SEC. 502. The purpose of this title is to establish under the Administrator a comprehensive national program for the monitoring of marine and coastal waters of the United States, which will provide the data and information on the status and trends of contamination levels and biological effects in such waters necessary for governmental entities to make well-informed management decisions concerning the utilization and protection of the resources of such waters.

DEFINITIONS

SEC. 503. As used in this title, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce; and

(2) "marine and coastal" refers to the marine and coastal waters off the States along the coasts of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the Pacific Ocean, the marine and coastal waters off the coast of the State of Alaska, and the waters of the Great Lakes.

COMPREHENSIVE PROGRAM

SEC. 504. The comprehensive national mointoring program referred to in section 502 shall consist of—

(1) a nationwide monitoring network as described in section 505;

(2) intensive regional monitoring programs as described in section 506; and

(3) a national monitoring center as described in section 507.

NATIONWIDE MONITORING NETWORK

SEC. 505. (a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration of the Department of Commerce a unified nationwide monitoring network, which shall, on the date of enactment of this Act, include the activities and functions of the National Status and Trends Program of the National Oceanic and Atmospheric Administration as in existence immediately before such date of enactment. The network shall be the single Federal activity for the national-scale monitoring of the marine and coastal waters of the United States and shall evaluate the status and trends of the following aspects of such waters:

(1) toxic substances, both organic and inorganic, and their biological effects;

(2) nutrient over-enrichment and low oxygen conditions;

(3) toxic and nuisance algal blooms; and

(4) overall ecological condition or health.

(b) INTERAGENCY COMMITTEE.—The Administrator shall carry out monitoring activities under this section in accordance with the guidance and priorities established by an interagency committee which shall be chaired by the Administrator and shall include representation from the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Army Corps of Engineers.

REGIONAL MONITORING PROGRAMS

SEC. 506. (a) DESIGNATION OF REGIONS.—The Administrator shall designate specific estuarine and coastal regions of major concern in which the waters shall be intensively monitored. Such regions shall include—

(1) each of the estuarine areas listed in section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) as areas requiring priority consideration; and

(2) such additional areas as the Administrator may designate from among areas

nominated for designation by the Governors of States that border those areas.

(b) MONITORING COORDINATION GROUPS.—(1) The Administrator shall establish monitoring coordination groups for each designated region to develop and direct a monitoring program tailored to the needs of the region and based on the existing monitoring conducted in the region. Each such group shall consist of representatives of the Federal, State, and other agencies with marine or coastal monitoring programs or responsibilities in the region and such academic and other experts as the Administrator may appoint. Each such group shall develop a longterm monitoring plan for the region and, within two years after the establishment of the group, shall submit the plan to the Administrator.

(2) The members of any such monitoring group shall receive neither compensation nor expenses, except that any nongovernmental experts appointed to the group may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the members's usual place of residence, in accordance wtih section 5703 of title 5, United States Code, when engaged in the actual performance of duties as a member of the group.

(c) REGIONAL MONITORING ACTIVITIES.—The Administrator shall ensure that the regional monitoring activities fully incorporate activities of the nationwide monitoring network established under section 505. The Administrator shall include only such additional sampling sites, times, and measurements as are required to assemble the data and information needed by regional resource managers to identify and address estuarine and coastal problems within the region.

(d) ANNUAL OPERATING PLAN.—After approval by the Administrator of its long-term monitoring plan, each regional monitoring group shall develop annually an operating plan for the monitoring activities to be conducted in its region. Each such plan shall identify—

(1) monitoring activities proposed to be conducted;

(2) the agency responsible for each such activity;

(3) the estimated cost for each such activity; and

(4) the source of funding available for each such activity.

The Administrator, upon recommendation by the regional monitoring group, may award supplemental funding for a specific monitoring activity, not to exceed 50 percent of the total cost of the activity.

(e) REGULATIONS.—The Administrator shall issue regulations necessary to implement the provisions of this section, including procedures for the approval of long-term monitoring plans and for the awarding of supplemental funding for regional monitoring activities.

NATIONAL COASTAL MONITORING CENTER

SEC. 507.(a) ESTABLISHMENT OF CENTER.—Within 90 days after the date of enactment of this Act, the Administrator shall establish within the National Oceanic and Atmospheric Administration a National Coastal Monitoring Center. The Center shall develop scientific methods and procedures for carrying out the monitoring activities under this title in an effective, efficient, and economical manner and shall issue reports and other data products to disseminate in a timely manner the results of such activities.

(b) FUNCTIONS.—The Center shall, among other things—

(1) develop a coordinated national data and information management system to assure compatibility of all data and information developed under this title and facilitate the exchange of such data and information;

(2) develop a coordinated national quality assurance and quality control program to assure accuracy and compatibility of all data and information obtained in the nationwide network and regional programs established under this title;

(3) support research studies to develop improved procedures and methods for monitoring marine environmental quality indicators and conditions;

(4) implement studies to develop recommendations for standardized sampling protocols, analytical measurement methods, and statistical data analysis procedures to be used in the nationwide network and regional programs established under this title;

(5) organize national and regional workshops and meetings, develop reports, and otherwise take actions to coordinate the Federal, State, regional, and other monitoring programs carried out in association with the nationwide network and regional programs established under this title; and

(6) develop periodically reports assessing various aspects of the status and trends of the environmental quality of marine and coastal waters of the United States, including the development every two years of a report synthesizing all the results from the activities under this title to provide an overall evaluation of the current conditions indicating environmental health of these areas and an identification of significant trends that are occurring in these conditions.

BOSTON HARBOR MONITORING

SEC. 508. As part of the program established under this title, the Administrator shall, in connection with the cleanup of the Boston Harbor, develop sophisticated and credible techniques and methodologies for collecting and analyzing baseline data on environmental phenomena in the Harbor, such as bacteria, quality and quantity of indigenous species, and swimmability. The Administrator shall work with the Massachusetts Water Resources Agency in preparing a multiyear plan for such development of techniques and methodologies.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the program established by this title, $3,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, and $15,000,000 for fiscal year 1995.

Mr. HOLLINGS. Mr. President, today, I am pleased to join Senator KERRY and others in introducing the National Oceanic and Atmospheric Administration Authorization Act of 1991. As I have in the past, I remind my colleagues of the importance of fostering and improving the many important efforts of the National Oceanic and Atmospheric Administration [NOAA], which this authorization bill is intended to reinforce. The bill reauthorizes many important NOAA atmospheric and satellite, ocean and coastal, and fisheries programs. It also contains important provisions dealing with coastal monitoring and modernization of the NOAA oceanographic research fleet.

NOAA provides the Nation with information about our oceans and atmosphere and global change that is essential to ensure the sound use of our natural resources. In fact, protection and restoration of the marine environment have become the focus of activity at the Federal, State, and local government levels. Each year, the various governmental agencies spend billions of dollars on corrective measures to improve our coastal environmental quality. Last year, Federal, State, and local agencies, public utilities, and private corporations spent more than $133 million to monitor the condition of the marine environment. Given this investment, it is time that we establish the national comprehensive coastal monitoring program set forth in this bill.

This bill also has important provisions dealing with dolphin-safe tuna fishing. As a principal author and longtime supporter of the Marine Mammal Protection Act [MMPA], I have worked for a balanced and comprehensive Federal approach to marine mammal conservation. The killing of dolphins is a serious problem, one we attacked last year when we reauthorized the MMPA. Currently, embargoes are in place against countries which have not complied with the terms of that law. There are additional ways we can address the problem. I believe that the best longterm solution to the recurring tuna-dolphin issue is to develop fishing methods that do not involve encirclement of dolphins. To that end, $1 million is set aside in this bill to develop coordinated research and development of dolphin-safe fishing methods. Not only will this effort work to develop alternative fishing gear, but it will focus on understanding the behavioral bonds that link dolphin and yellowfin tuna in the eastern tropical Pacific Ocean together.

I look forward to moving ahead expeditiously with the reauthorization of these important NOAA programs.

By Mr. DANFORTH:

S. 1407. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1408. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1409. A bill to provide for damages in cases of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS LEGISLATION

Mr. DANFORTH. Mr. President, three weeks ago last Tuesday, nine Republican Senators introduced a package of three civil rights bills to provide the framework for addressing the difficult issue of various Supreme Court decisions that were decided two years ago.

The effort that was made three weeks ago last Tuesday was to provide bal-

anced legislation in an effort to meet the needs of those who believed that the civil rights law should be changed and the concerns that were expressed by the White House and others, particularly with respect to quotas.

The purpose of the three bills was to fashion a compromise. The nine Senators who introduced those three bills believed that we went at least half way in meeting the concerns that had been expressed by the President and by those in the administration.

During the three weeks that followed the introduction of that legislation, we engaged in a series of discussions with administration officials and others to attempt to understand as best we could their concerns about the legislation that we introduced. Shortly after the bills were introduced, over a period of two days, at the staff level, there were eight hours of detailed discussions—in the words of Attorney General Thornburgh, line-by-line discussions—of the administration's concerns.

Mr. President, I am about to introduce three additional bills that are designed to go yet further in meeting the concerns that were expressed by the administration. Specifically, 22 different problems stated by administration lawyers have been addressed in the follow-on legislation that I am about to introduce.

Mr. President, I ask unanimous consent that a list of those 22 specific concerns and how they were addressed be printed in the RECORD.

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

CHANGES MADE AT THE REQUEST OF THE ADMINISTRATION, JUNE 27, 1991

1. S. 1207, THE CIVIL RIGHTS RESTORATION ACT OF 1991

a. The Administration expressed concern that attorney's fees granted by this bill for mixed motive cases (Price Waterhouse cases) would not be limited to the attorney's work performed on the mixed motive case. The concern was that the attorney would always plead a mixed motive claim along with numerous other claims and attempt to recover fees for work done on the other claims as well as the Price Waterhouse claim.

Response: Cosponsors inserted language that ensures that attorneys receive fees "directly attributable only to the pursuit of a claim under this section."

b. The Administration expressed concern about the bifurcation of the rule governing challenges to consent decrees or court-ordered remedies.

Response: Instead of applying different rules, cosponsors agreed to apply the same rules to all consent decrees or court-ordered remedies.

c. The Administration was concerned about retroactive application of the Martin v. Wilks section.

Response: Cosponsors made the section in question prospective.

d. The Administration wanted technical corrections in the section of the legislation concerning Lorance v. AT&T Technologies.

Response: Cosponsors made the technical corrections.

e. The Administration believed that the provision concerning affirmative action was too broad.

Response: Cosponsors narrowed the provision.

2. S. 1208, THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1991

a. The Administration believed that the purposes section was unclear and too broad.

Response: Cosponsors clarified it.

b. The Administration strongly emphasized the need to use the term "cause" to describe the plaintiff's burden in a disparate impact case.

Response: Cosponsors adopted the term "cause."

c. The Administration was disturbed by the phrase "after discovery" in describing the plaintiff's burden in a disparate impact suit.

Response: Cosponsors removed the term "after discovery."

d. The Administration was concerned about a clause they viewed as ambiguous with regard to when a defendant may use the defense of "business necessity."

Response: Cosponsors clarified that the defense was not available in intentional discrimination suits.

e. The Administration requested the deletion of a clause concerning statistical imbalances in the racial makeup of an employer's workforce.

Response: Cosponsors deleted the clause.

f. The Administration requested the deletion of a "comparable worth" construction clause.

Response: Cosponsors deleted the clause.

g. The Administration requested deletion of the subsection concerning court-ordered race-norming.

Response: Cosponsors deleted subsection in question.

h. The Administration requested use of the phrase "manifest relationship to the employment in question" in the definition of "business necessity."

Response: Cosponsors incorporated that phrase in the bill's definition.

i. The Administration was concerned about the potential breadth of the term "selection" in the definition of "business necessity."

Response: Cosponsors deleted this term and replaced it with a narrower description of employment practices.

j. The Administration was concerned that employers would lack discretion in making its own hiring decisions.

Response: Cosponsors attempted to clarify that employers have discretion in choosing their employees.

k. The Administration believed that certain sections of the bill would be misconstrued as circular.

Response: Cosponsors deleted terms of concern.

l. The Administration preferred conceptual descriptions (rather than lists of examples) in the definition of "business necessity."

Response: Cosponsors deleted lists and used language designed to describe the concepts.

m. The Administration requested deletion of construction clauses that it viewed as superfluous and subject to misconstruction.

Response: Cosponsors deleted the construction clauses in question.

n. The Administration requested that liability not be automatically assessed against an employer who did not know about an alternative employment practice which has a less disparate impact upon a protected group than the employer's practice.

Response: Cosponsors adopted the Administration's position on alternative practices.

3. S. 1209, THE CIVIL RIGHTS AND REMEDIES ACT OF 1991

a. The Administration requested a limit on damages for "reasonable accommodation" cases under the Americans with Disabilities Act.

Response: Cosponsors developed a "good faith" exception for such cases.

b. The Administration requested a cap on future pecuniary damages.

Response: Cosponsors adopted such a cap.

c. The Administration requested a lowering of caps on compensatory and punitive damages.

Response: Cosponsors accommodated request by lowering caps, and creating three tiers of damages for varying sizes of businesses.

Mr. DANFORTH. Mr. President, the most difficult single issue by far that faced us, and continues to face us, has been the definition of business necessity, for the purpose of addressing the issue created by the Wards Cove case. We have been wrestling with the issue of business necessity for approximately a year and a half, and it has been very, very difficult to resolve.

Again, when the legislation was introduced 3 weeks ago, an effort was made to accommodate both the concerns of those who wanted to change the civil rights law and the concerns that had been expressed by the administration. But we recognized that, after introducing that legislation, it was necessary to try to reach some sort of accommodation with the administration in the definition of business necessity.

So beginning with the legislation that was introduced 3 weeks ago, a total of six different legislative suggestions on defining business necessity were put to the administration. Two of them—the one that was in the bill, S. 1208, and a follow-on suggestion—were in the form of formal offers that were made by the nine Republican Senators to the administration. The remaining four were more informal suggestions noted by me to the administration.

Two days ago, Governor Sununu got back to me with his suggested modification of one of the various proposals. That particular modified approach was in turn submitted to Senator KENNEDY and others, with the suggestion of the nine Republican Senators that it be accepted. Senator KENNEDY expressed his concerns with that language, and the judgment of this Senator was that his concerns were in fact well taken and that they should be addressed, and that the proposal should be modified.

So suggestions, in turn, were made by me as to how the Sununu proposal should be modified, and those suggestions are incorporated in the legislation that I am about to send to the desk.

Mr. President, I will send to the desk a description of the various proposals that have been made for defining business necessity. The last two proposals

that are mentioned are the so-called Sununu proposal, and my modification of the Sununu proposal.

One suggestion I would make to interested Senators and to others is that they analyze the difference between the Sununu proposal and what I have suggested. I believe that most people would find that the differences are very, very close.

So. Mr. President, I ask unanimous consent that this description of the various definitions of business necessity be printed in the RECORD.

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

DEFINITIONS OF BUSINESS NECESSITY

LANGUAGE OF S. 1208

The term "required by business necessity" means—

(1) in the case of employment practices involving selection, that the practice or group of practices bears a manifest relationship to the requirements for effective job performance; and

(2) in the case of other employment decisions not involving employment selection practices as described in paragraph (1), the practice or group of practices bears a manifest relationship to a legitimate business objective of the employer.

The term "requirements for effective job performance" includes—

(1) the ability to perform competently the actual work activities lawfully required by the employer for an employment position; and

(2) any other lawful requirement, that is important to the performance of the job, including, but not limited to, factors such as punctuality, attendance, a willingness to avoid engaging in misconduct or insubordination, not having a work history demonstrating unreasonable job turnover, and not engaging in conduct or activity that improperly interferes with the performance of work by others.

Option 1: The term "required by business necessity" means—

(1) in the case of employment practices primarily measuring qualification for or ability to do the job, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes—

(1) the performance of actual work activities required by the employer for a job or job family; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Option 2: The term "required by business necessity" means—

(1) in the case of practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

Option 3: The term "required by business necessity" means—

(1) in the case of practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a demonstrable relationship to successful performance of the jobs for which it was used.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

Option 4: The term "required by business necessity" means—

(1) in the case of employment practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Option 5: The term "required by business necessity" means—

the challenged practice must bear a manifest relationship to the employment in question.

(1) in the case of employment practices used to measure job qualifications or ability to do the job, the term "employment in question" means job performance.

(2) in the case of employment practices not described in paragraph (1), the term "employment in question" means a legitimate business objective of the employer.

The term "job performance" includes—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

SUNUNU PROPOSAL

The term "required by business necessity" means—

(1) in the case of employment practices that are used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes, but is not limited to—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Sununu proposal with suggested Danforth changes

The term "required by business necessity" means—

(1) in the case of employment practices that are *used as job qualifications or* used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" *means* [includes, but is not limited to]—

(1) the performance of actual work activities required by the employer for a job or class of jobs; *or* [and]

(2) any requirement related to *work* behavior that is important to [the performance of] the job, but may not comprise actual work activities.

Mr. DANFORTH. Mr. President, a very strong effort has been made by nine Republican Senators to make the bill acceptable to President Bush. We believe that we have come very close to addressing the President's concerns. We know that remaining concerns are there, but we believe that we have come about 90 percent of the way.

Our hope now is that the President will be able to reach over to us for that remaining 10 percent; that we can have a bill which is both acceptable to those who want legislation and which is acceptable to the President of the United States. It will take a little bit of a reach. But I think we have closed the gap sufficiently, so that it is certainly something that can be accomplished.

I would like finally to say, Mr. President, just as a matter of personal motivation and why I am so concerned about this issue, I think that business necessity, so-called disparate impact cases, are so unusual in the courts that we could probably survive with any of the various definitions that have been proposed.

I do believe there are substantive problems in the Sununu definition. I believe the proposal that is incorporated in the legislation which I will soon send to the desk is good public policy. But I think that the real issue is not so much the exact wording of the legislation. I think the real issue before us is the extent to which race is going to be a nagging political issue in this country.

I know, Mr. President, that there are those who believe that it is somehow a winning issue; that race is a wedge issue, that it can divide people, and that it can build constituencies. But I believe that it is a bad issue for the country. And I particularly believe that it is a bad issue for the Republican Party, my party. I think the job of Government in this diverse country should be an attempt to bring people together, not to find ways to rub nerve ends raw. And I think that is exactly what we are doing by constantly harping on the issue of quotas, the issue of job preferences, and so on.

Almost nobody likes quotas. I have never heard anybody in the U.S. Senate express a liking for quotas. But I think a lot of people like the quota issue as a political issue. And the principle reason I believe that it is important to move forward and attempt to com-

promise this legislation is to try to put this issue behind us.

I am confident that there is a national consensus in America on the issue of fairness in employment. I am confident that the overwhelming majority of Americans believe that people should be hired, not on the basis of their race or their gender or any other such reason, but people should be hired on their ability to do the job and that employers should be able to defend themselves without resorting to quotas. I am confident that that is the overwhelming sentiment of the people of the United States.

I think that it is possible to build on that sentiment. I believe that it is possible to legislate that sentiment. I think that that is what the nine Republican Senators are doing. I am confident that that is the result of the legislation that I will now send to the desk. Mr. President, it is time to build on the national consensus and not tear it apart. We in the U.S. Senate, and those in the executive branch as well, have a choice to go either way. I think it is time to make the reasonable accommodations and compromises that are necessary to build the consensus back again.

Mr. President, I send three bills to the desk and ask unanimous consent that they be printed in the RECORD.

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

S. 1407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Restoration Act of 1991".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that legislation is necessary to provide additional protections against unlawful discrimination in employment.

(b) PURPOSE.—The purpose of this Act is to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

SEC. 3. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end the following new subsections:

"(b) For purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.".

SEC. 4. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k) Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended—

(1) by designating the first through third sentences as paragraph (1);

(2) by designating the fourth sentence as paragraph (2)(A); and

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

"(B) On a claim where an individual proves a violation under section 703(k) and a repondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

"(i) may grant declaratory relief, injuctive relief (except as provided in clause (ii)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under this section; and

"(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).".

SEC. 5. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4 of this Act) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (3), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

"(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

"(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

"(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

"(II) a reasonable opportunity to present objections to such judgment or order; or

"(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 6. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means to meet the burden of production and persuasion.

"(n) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by inserting "(1)" before "A charge under this section"; and

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

"(2) For purposes of this section, an unlawful employment practice occurs when—

"(A) a seniority system is adopted, an individual becomes subject to a seniority system, or a person aggrieved is injured by the application of a seniority system or provision of the system; and

"(B) the system has been adopted for an intentionally discriminatory purpose, in violation of this title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. AUTHORIZING AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees)" after "attorney's fee".

SEC. 9. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 12 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking "thirty days" and inserting "90 days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties.".

49-059 O—95 Vol. 137 (Pt. 12) 20

SEC. 10. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

Section 7(e)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)(2)) is amended to read as follows:

"(2) If a charge filed with the Commission is dismissed or the proceedings of the Commission are otherwise terminated by the Commission, the Commission shall notify the individual referred to in subsection (d). The individual may bring an action against the respondent named in the charge not earlier than 60 days after the date on which the charge was timely filed and not later than 90 days after the date of the receipt of the notice.".

SEC. 11. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.

(a) DEFINITION OF EMPLOYEE.—Section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) is amended by adding at the end the following: "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.".

(b) EXEMPTION.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) is amended—

(1) by inserting "(a)" after "SEC. 702.", and

(2) by adding at the end the following:

"(b) It shall not be unlawful under Section 703 or 704 for an employer (or a corporation controlled by an employer), labor organization, employment agency, or joint management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

"(c)(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by Section 703 or 704 engaged in by such corporation shall be presumed to be engaged in by such employer.

"(2) Section 703 and 704 shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

"(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

"(A) the interrelation of operations;

"(B) the common management;

"(C) the centralized control of labor relations; and

"(D) the common ownership or financial control; of the employer of the corporation.".

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to conduct occurring before the date of the enactment of this Act.

SEC. 12. EDUCATION AND OUTREACH.

Section 705(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

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

"(2) In exercising its powers under this title, the Commission shall carry out educational and outreach activities (including dissemination of information in languages other than English) targeted to—

"(A) individuals who historically have been victims of employment discrimination and have not been equitably served by the Commission; and

"(B) individuals on whose behalf the Commission has authority to enforce any other law prohibiting employment discrimination; concerning rights and obligations under this title or such law, as the case may be.

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION, AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are in accordance with the law.

SEC. 14. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to section 1977 of the Revised Statutes (42 U.S.C. 1981), and the amendments made by this Act, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C.; 2000e et seq.), the Age Discrimination in Employment Act of 1967 (42 U.S.C. 621 et seq.), section 1977 of the Revised Statutes, this Act, and the amendments made by this Act shall, subject to subparagraph (D), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, section 1977 of the Revised Statutes, this Act, and the amendments made by this Act, shall, subject to paragraphs (2) and (5) apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) or section 15 of the Age Discrimination in Employment Act of 1967 (42 U.S.C. 633a).

SEC. 15. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the the Acts amended by this Act.

SEC. 16. EFFECTIVE DATE.

IN GENERAL.—This Act and the amendments made by this Act shall take effect upon enactment.

SEC. 17. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

S. 1408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Employment Opportunity Act of 1991".

SEC. 2. FINDING AND PURPOSES.

(a) FINDING.—Congress finds that the decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 109 S. Ct. 2115 (1989) has weakened the scope and effectiveness of Federal civil rights protections.

(b) PURPOSES.—The purposes of this Act are—

(1) to overrule the proof burdens and meaning of business necessity in Wards Cove Packing Co. v. Atonio and to codify the proof burdens and the meaning of business necessity used in Griggs v. Duke Power Co., 401 U.S. 424 (1971); and

(2) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

SEC. 3. BURDEN OF PROOF IN DISPARATE IMPACT CASES.

IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k)(1)(A) An unlawful employment practice based on disparate impact is established under this title only if—

"(i) a complaining party demonstrates that a particular employment practice or particular employment practices (or decision-making process as described in (B)(i)) cause a disparate impact on the basis of race, color, religion, sex, or national origin; and

"(ii)(I) the respondent fails to demonstrate that the practice or practices are required by business necessity; or

"(II) the complaining party makes the demonstration described in subparagraph (C) with respect to a different employment practice and the respondent refuses to adopt such alternative employment practices.

"(B)(i) With respect to demonstrating that a particular employment practice or particular employment practices cause a disparate impact as described in subsection (A)(i), the complaining party shall demonstrate that the particular employment practice causes in whole or in significant part the disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decision-making process are not capable of separation for analysis, the decision-making process may be analyzed as one employment practice.

"(ii) If the respondent demonstrates that a specific employment practice is not responsible in whole or in significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(C) An employment practice which causes in whole or in significant part a disparate impact that is demonstrated to be required by business necessity shall be unlawful if the complaining party demonstrates that a different available employment practice, which would have less disparate impact and make a difference in the disparate impact that is more than negligible, would serve the respondent's legitimate interests as well and the respondent refuses to adopt such alternative employment practice.

"(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this title.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

SEC. 4. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST SCORES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 3) is further amended by adding at the end the following new subsection:

"(1) It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex or national origin.

SEC. 5. DEFINITIONS.

IN GENERAL.—Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(1) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'required by business necessity' means—

"(1) in the case of employment practices that are used as job qualifications or used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

"(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

"(o) The term 'employment in question' means—

"(1) the performance of actual work activities required by the employer for a job or class of jobs; or

"(2) any requirement related to behavior that is important to the job, but may not comprise actual work activities.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 6 COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendments made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in Paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the amendments made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964 and the amendments made by this Act shall, subject to paragraphs (2) and (5), apply with respect to the Act shall, subject to paragraphs (2) and (5), apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

"(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment.

"(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 727 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

S. 1409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights and Remedies Act of 1991."

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace.

(b) PURPOSE.—The purpose of this Act is to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

SEC. 3. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

The Revised Statutes are amended by inserting after section 1977 the following new section:

"SEC. 1977A. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

"(a) RIGHT OF RECOVERY.—

"(1) CIVIL RIGHTS.—In an action brought by a complaining party under section 706 of the Civil Rights Act of 1964 (42 USC 2000e-5(e)) against a respondent who intentionally engaged in an unlawful employment practice prohibited under section 703 and 704 of the Act (42 U.S.C. 2000e-2, 2000e-3), and provided that the complaining party cannot recover under section 1977 of the Revised Statutes (42 U.S.C. 1981), the complaining party may recover the compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(2) DISABILITY.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a))) against a respondent who intentionally engaged in a practice that constitutes discrimination under section 102 of the Act (42 U.S.C. 12112), other than discrimination described in subsection (b) paragraph (3)(A), or other than discrimination described in subsection (b) paragraph (6) (except for practices intended to screen out individuals with disabilities), against an individual, the complaining party may recover the compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(3) REASONABLE ACCOMMODATION AND GOOD FAITH EFFORT.—In cases where a violation involves the provision of a reasonable accommodation pursuant to section 102(b)(5), damages may not be awarded where the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

"(b) COMPENSATORY AND PUNITIVE DAMAGES.—

(1) DETERMINATION OF PUNITIVE DAMAGES.—A complaining party may recover punitive damages under this subsection if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(2) EXCLUSIONS FROM COMPENSATORY DAMAGES.—Compensatory damages awarded under this section shall not include back pay, interest on back pay, or any other type of relief authorized under section 760(g) of Civil Rights Act of 1964.

(3) LIMITATIONS.—The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed—

(A) in the case of a respondent who has 100 or fewer employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

(B) in the case of a respondent who has more than 100 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000; and

(C) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to limit the scope of, or the relief available under, section 1977 of the Revised Statutes (42 U.S.C. 1981).

"(c) JURY TRIAL.—

"(1) IN GENERAL.—(A) If a complaining party seeks compensatory or punitive damages under this section, any party may demand a trial by jury.

(B) The court shall not inform the jury of the limitations described in subsection (b)(3).

"(d) DEFINITION.—As used in this section:

"(1) COMPLAINING PARTY.—The term 'complaining party' means—

"(A) in the case of a person seeking to bring an action under subsection (a)(1), a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

"(B) in the case of a person seeking to bring an action under subsection (a)(2), a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(2) DISCRIMINATORY PRACTICE.—The term 'discriminatory practice' means a practice described in paragraph (1) or (2) of subsection (a).".

SEC. 4. ATTORNEYS' FEES.

The last sentence of Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting ", 1981A" after "1981".

SEC. 5. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendment made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provision described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entitiy as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of the law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under the amendment made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under the amendment made by this Act, shall, subject to paragraph (2), apply with respect to any employee in an employ-

ment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

SEC. 6. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

Mr. BIDEN. Mr. President, I do not want to damage his standing and reputation, but I think the Senator from Missouri has demonstrated once again, as he has a number of times on this floor, that this body is in fact made up of people of character, significant character, men and women who have come to this body to legislate, to solve problems, and not to politic. Although all of us are capable at times, and out of necessity believe it is important to push for partisan advantage in order to accomplish substantive results, I must say that the comments just made by the Senator from Missouri—and I heard them only as I sat in the cloakroom trying to work out the final stages of this crime bill—demonstrate to me what all of us know; that in JACK DANFORTH, there is a man of character. I am proud to serve in the Senate with him. I do not have any idea what the substance of his legislation is. I have no idea whether I will support it or not support it. I have not read it. But I know one thing, I am proud to serve in a body with men like JACK DANFORTH.

Mr. DURENBERGER. Mr. President, I rise to thank my colleague from Delaware for his comments and to say I certainly share those comments. I have come to the floor to congratulate my colleague, Senator JACK DANFORTH of Missouri, for his very special, commendable—I probably cannot find enough appropriate superlatives—for the effort he has put forth in mediating the civil rights dialog between the administration, civil rights groups, the business interests, and the Senate Democratic leadership. It seems to me there can be no doubt that all America hopes and prays there will be a successful resolution of what has become an incredibly divisive issue.

In the Congress, we do not approach civil rights in this session on a very clean slate. As all of us know, the civil rights bill was highly controversial last year. Some politicians, for political gain, sought to exploit racial animus—and I accent, as my colleague from Missouri did, racial animus—by raising questions about the legitimacy of the previous civil rights efforts. Tensions were high, and America focused on "quotas," on "affirmative action," and on whether our society has become sufficiently progressive that racial preferences favoring minorities are no longer necessary, and even the suggestion that perhaps they have become more harmful than helpful.

This Senator remains a steadfast supporter of civil rights, despite the efforts of those who have attempted to use the quota issue to divide America. My own record on civil rights has been beyond reproach, I would say. As a principle cosponsor of Americans With Disabilities Act last year and a strong supporter of such civil rights initiatives as the Voting Rights Act and The Civil Rights Restoration Act that overturned the Grove City decision, there can be no doubt that this Senator remains devoted to the cause of equality and equal opportunity for all Americans regardless of race, sex, national origin, or religion.

That is why I supported the civil rights bill last year. In fact, I believe so strongly in civil rights that I even voted to override my own President's veto of the bill.

This year we have been presented with an opportunity to resolve that civil rights issue. Senator DANFORTH introduced legislation just 3 weeks ago that provides meaningful relief to victims of discrimination, that overturns various harmful Supreme Court decisions such as Lorance versus AT&T, Martin versus Wilks, Patterson versus McLean Credit Union, and that promises to provide the definitive compromise bill that avoids quotas.

Along with eight other Republicans, I am a cosponsor of that legislation. After Senator DANFORTH introduced our proposal, our staffs became enmeshed in marathon discussions with all the interested parties. Specifically, we spent over 10 hours with the Justice Department and administration officials in order to deal with their concerns with the Danforth bill. These occasionally tortuous discussions helped to focus the issues and to increase our depth of understanding of the administration's position.

Further, we were in constant contact with civil rights groups as well as with various Democratic leaders because we believed that their problems deserved strong consideration, too.

Through the past 3 weeks, we all shared JACK DANFORTH'S commitment to play a mediating role in this process. I analogize his role as that of midwife, attempting to coax a yet-to-be-born child into this new world. The midwife cannot make the birth happen, but clearly that person can facilitate the birth, wait with outstretched arms, positioning the child during the birth process in anticipation of a wonderful event.

Our goal remains to position this civil rights bill in such a way that the President of the United States will sign it, to position it in such a way that the Democrats will support it. In order to achieve that goal the cosponsors of the Danforth bill made several modifications, as he has indicated earlier on the floor. In significant ways we altered our original proposal to accommodate the White House.

Clearly, when Senator DANFORTH first introduced our proposal, we were merely in a state of false childbirth. We thought the mother was having contractions, but it turned out the birth would not occur very soon, and 3 weeks passed. During that time, changes were made to the bill. To name just a few examples, there were changes in the formulation of the prima facie case for disparate impact cases, where plaintiffs challenge neutral practices that adversely affect minority groups. Originally, we said that the challenged practice must be "responsible in whole or in significant part" for the disparate impact. But the administration insisted on the term "causes" rather than "is responsible" because they were concerned that our phrase might mean that the challenge practice "merely contributed to" the disparate impact rather than serving as the proximate cause of the disparate impact.

Further, the administration has said from the beginning that they wanted to return to the legal standard employers use to defend disparate impact suits that the Supreme Court enunciated in its seminal decision, Griggs versus Duke Power. In that case, the Supreme Court stated that employers may defend practices that adversely affect minority groups by showing that the challenged practice bears a "manifest relationship to the employment in question."

Mr. President, the Danforth cosponsors agreed to that language. In the most controversial section of this entire bill, we so-called moderate Republicans have conceded that the business necessity definition that the administration has stated that it wanted for 18 months, is acceptable. Again, we experienced once more the hope that we could coax the birth of a civil rights bill.

But now we are faced with a new twist. Suddenly, the language of Griggs is no longer acceptable. Why not? How come the language which captures the intent of which the Attorney General

desires suddenly does not meet with White House approval? How could we be so close and yet so far? The administration has told us that the language would be acceptable if we omit reference to qualifications in our bill. The White House believes that employers should not have to justify their employment practices that measure qualifications by showing that they bear a manifest relationship to the employment in question.

Mr. President, it is clear, even to the nonlawyer, that the term "qualifications" is exactly what the Griggs case was all about. Griggs dealt with a high school diploma requirement that an employer utilized as a qualification for employment. Omission of that term certainly would overturn rather than modify the Griggs case.

So, Mr. President, we are left once again as a midwife, attempting to coax a civil rights bill through the mother of all controversies. Once again, we have come within a hair's breadth of reaching an agreement that all parties should find acceptable. I remain concerned that this newborn will be a breach birth, where there is a particular danger that the child will be choked by its own umbilical cord. JACK DANFORTH has done all that he can. JACK DANFORTH has delivered a civil rights bill that no parties completely love, but all parties should be able to accept.

We know that after conception, as parents, we cannot choose a child's hair color, height, or sex. There are some things that parents have to accept, even if they had their heart set on having a son and then become parents of a baby girl. Shortly after birth, however, all parents realize what a blessing a newborn child is, whether male or female. Similarly, in this case, I came here today to urge all parties to realize that the civil rights bill that the so-called moderate Republicans have tried to deliver and that the Senator from Missouri has laid at the desk this afternoon is clearly a bill that will make everyone proud.

Mr. President, I urge the White House, the Democrats, the business community, and the civil rights groups, to respond favorably to the Danforth proposal.

Mr. BOREN. Mr. President, over the last several days, or many hours, it has been my privilege to have conversations and attend meetings with the distinguished Senator from Missouri [Mr. DANFORTH], with regard to an effort to work out a bipartisan consensus on the civil rights bill that will soon be pending before the Senate. These discussions have involved not only Members of the Democratic and Republican parties in the U.S. Senate, they have also involved members of the administration and members of the White House staff in a effort to come together to find a consensus approach toward civil rights legislation.

Mr. President, when an individual Senator undertakes a negotiation like this, as Senator DANFORTH has undertaken, it is an undertaking that carries with it grave political risks, on an issue as controversial and divisive, potentially, as this proposed civil rights legislation is.

It is much easier for a Senator to stay in the background, to stay out of the line of fire, to keep his or her head down and to not be noticed, to not commit himself or herself to a particular course of action or behavior until it becomes absolutely necessary to cast a vote on a particular matter of legislative policy that is before us.

Unfortunately for the public policy of this country, too many of us often follow this course of least resistance and least political risk. That is not what is good for the country. We all have a responsibility to try to do what is best for our country to try to find the right policy answers. And on an issue of this importance and this magnitude, it is particularly important that we try to speak with a single voice as Americans; that rather than having equality of opportunity be an issue which divides us along party lines, or lines defined by sex, or race, or national origin, or religion, or physical condition, we need to share, as Americans, one common feeling and one common commitment that this should be a country, and this should be a legal and political system, and this should be a community in which all of us have equal standing as Americans without regard to any other defining characteristic. And each of us, men and women, those with physical disabilities and those with no physical disabilities, those of one religion and those of another, those of one race and those of another race, and have an equal opportunity to participate as full members of that family.

There are many signs of growing division in our country. Some refer to it as Balkanization. Some have referred to it as tribalization of our country. More and more factors that drive wedges between us and divide us at a time when we face a changing world, the need to come together to improve our educational system, to deal with our underlying social problems, to improve our economic productivity in a way that will restore and keep the strength of this country as we go into the next century.

And so, Mr. President, this is a time in which we need to come together as one American family caring for each other, understanding each other, and respecting each other, not divided from each other. It is a time in which our political leadership needs to be appealing to our best instincts and not appealing to our worst instincts, appealing to those parts of our personalities and being that bring us together and not appealing to those elements of prejudice in our being that would drive us apart.

Mr. President, for us to have a divisive debate on civil rights legislation in this Chamber, to have one group pitted against another on two sides of a proposal before us, to have it perhaps injected as an issue into the next Presidential campaign is bad for America. It is not only bad politics, it is, more important, bad for America, bad for this country. It can further divide this country along racial, religious, and ethnic lines. It is a divisive debate that in this deliberative body, which is used to debate, it really should have no place right now. It is a debate that we do not need to have. It is a debate that we should not have in this country.

Instead, we should seek to find ways to accommodate each other, to come together, to work out a proposal that protects the rights of all Americans and equal opportunity for employment, to be a productive part of the society, to have our work performance and our professional performance judged on the merits and on no other characteristics, while at the same time not imposing any artificial structure, any quotas, any kind of rigid straitjacket that would, indeed, instead of providing equal opportunity bear the mark of a preference for one group over another, further dividing us, further causing resentments.

Mr. President, that is why the Senator from Missouri, Senator DANFORTH, with all the political risks, decided to step forward and to try to be an intermediary between the White House and the Congress on this important issue of civil rights legislation, and between both sides of the aisle, and different philosophical perspectives on civil rights legislation that will soon be before us.

By taking that stance, Mr. President, he took on a very thankless task. When you stick your head up and you try to fashion a compromise of that kind in a moderate and a reasonable way to bring people together instead of using the rhetoric that inflames passions and divides people apart, you take on a risk, and you almost assure yourself that you will be criticized and misjudged by those especially who are taking the polar position on each side of the issue. When you seek common ground you usually end up angering people on both sides of the issue in what has been a divisive debate.

I have been dismayed when I have heard those on both sides of this issue, even some of it perhaps coming from the White House itself and from some sources there—I am not implying to the President himself, but some who work in that building criticize—and trying to pick apart, and trying to question what the Senator from Missouri has been doing.

I think it is important that those of us who are here and are called upon to

be responsible, whether we agree with the Senator from Missouri on every point or not—and I do not know yet whether I fully agree with the piece of legislation that the Senator has introduced today in regard to civil rights. I cannot say at this time whether I will vote for or against this proposal, but I know one thing, Mr. President, I have immense respect for the process which he has followed. I have immense respect for the Senator from Missouri for having the political courage and the devotion to this country to say, "I'll step forward. I'll take on the task that no one else wants of trying to find a consensus and come to a common agreement on civil rights legislation for this country. I will step forward," he said, and try to find a way to pull us together when there are those on both sides of the issue who might find it politically beneficial to find a way to drive us apart in this country.

Too often, and we have seen it in situation after situation, those who take the reasonable middle ground, those who work to bring people together, are ground up by the extremists on both sides. Those who are fighting for unity and community are often punished by those who would want to divide us.

I think all of us should reflect upon the integrity and the courage of the Senator from Missouri. And let me say I think that our colleagues on both sides of the aisle, whether they vote like the Senator from Missouri, whether they agree with the Senator from Missouri on this issue or other issues, would say both publicly and privately that he is one of the Members of the Senate in whose integrity we have total confidence, whose character we respect and admire. Time and time again I have heard my colleagues privately express, not just on this issue but on many issues, their admiration for the example of character and integrity which he sets as a public official in this country.

Mr. President, I do not know the outcome yet of what will happen in the civil rights debate. I do not know whether the Danforth proposal will pass or whether it will fail. I do not even know at this point how I will end up voting on this proposal. But I know one thing, Mr. President; his efforts deserve to be saluted by all of us. His efforts to find a common ground, his efforts to bring us together, his efforts to keep this country from undergoing a divisive debate over the issue of equal opportunity for all of our citizens deserve to be commended by all of us. They should stand as an example to all of us to have the same kind of courage, when faced with an issue in which we might have special understanding or expertise, to come forward and assume a similar role.

What is wrong with this country is not that we have too many JACK DANFORTH's, too many moderate, reasonable people who are trying to find ways to bring us together instead of to divide us. What is wrong with this country is we do not have enough people in either political party with the kind of courage that he has demonstrated, to try to bring us together on an issue of this importance, to step forward with a moderate, reasonable voice to try to find a common denominator.

Mr. President, I hope my colleagues, those on the floor and those who might be listening in their offices or those who might read my remarks later, will take the opportunity to say to Senator DANFORTH we appreciate the effort that he has made on behalf of the well-being of this country; we appreciate his efforts to stop a train in motion that might move forward to further divide this country at a time when we need unity; and to say to him that his example has not been lost on the rest of us, that hopefully it will call from the rest of us those same qualities and that same determination to make a difference in the right way, and to exercise the moral and political courage to step forward, to speak out, to make an effort and to be visible in a controversial issue of policy when it is necessary for the sake of this country.

So I express to Senator DANFORTH my personal appreciation and admiration for his efforts, and I express my hope that the kind of leadership and commitment he has shown on this issue will cause more colleagues on both sides of the aisle to follow a similar path of political courage and integrity and public service in the highest tradition of this body that he has demonstrated on this particular issue.

I thank the Chair.

By Mr. PRESSLER:

S. 1410. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. PRESSLER. Mr. President, I am introducing the Telephone Advertising Consumer Rights Act, a bill that responds to the national outcry over the explosion of unsolicited telephone advertising. I am pleased to join this effort which was begun by Representative EDWARD J. MARKEY, the chairman of the House Telecommunications and Finance Subcommittee, who has shown real vision and leadership in this area.

The telemarketing industry has witnessed unprecedented success over the past 10 years. In fact, telemarketing sales skyrocketed to over $435 million in 1990. This is a fourfold increase since 1984. This marketing success has created an industry in which over 300,000 telemarketing solicitors call more than 18 million Americans every day. Many consumers and business owners, however, complain that these calls are not only an annoyance, but also can pose dangerous consequences.

The cost and the interference of unsolicited advertising calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. I am proud to say that my home State of South Dakota is at the forefront of this effort and has just passed one of the most comprehensive pieces of legislation dealing with telemarketing abuse. Congress needs to act now to provide uniform ground rules to protect consumers while ensuring that the telemarketing industry continues to be a vigorously active player in the U.S. economy.

The Telephone Advertising Consumer Rights Act directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider, if this bill becomes law, is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange. This bill would not end unsolicited calls, but it would allow consumers to choose how their phone is used and requires vendors to respect that consumer decision.

Due to advances in autodialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers. This results in calls to hospitals, emergency care providers, unlisted numbers and paging and cellular equipment. There are many examples of autodial machines hitting hospital switchboards and sequentially delivering a recorded message to all phone lines. In some instances, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phone inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, my bill requires autodialer machines to release the phone line after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call. This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. My bill requires that autodial fax ma-

chines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

My legislation provides uniform Federal guidelines to ensure that the telemarketing industry will continue to experience unprecedented growth. Responsible telemarketers welcome a single set of clear rules. This bill will not preempt any State law addressing this topic. Rather, it would assist States in their attempts to regulate intrastate telemarketing abuse.

I urge my colleagues to support and cosponsor this legislation. It can ensure a robust telemarketing industry while giving consumers the ability to choose how their telephones are used.

Mr. President, I ask unanimous consent to have the Telephone Advertising Consumer Rights Act printed in the RECORD following my remarks.

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

S. 1410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Advertising Consumer Rights Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 226 (47 U.S.C. 226) the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator;

"(B) to dial such numbers; and

"(C) to deliver, without initial live operator assistance, a prerecorded voice message to the number dialed, with or without manual assistance.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to do either or both of the following: (A) to transcribe text or images (or both) from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship. Such term does not include a call or message by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States by means of telephone—

"(1) to make any telephone solicitation in violation of the regulations prescribed by the Commission pursuant to subsection (c);

"(2) to use, to make any telephone solicitation, any telephone facsimile machine or any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under subsection (d), or to use, to make any telephone solicitation, any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards;

"(3) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement in violation of any regulations prescribed by the Commission pursuant to subsection (e);

"(4) to use any automatic telephone dialing system to make unsolicited calls—

"(A) to any emergency telephone line or pager of any hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency; or

"(B) to any telephone number assigned to paging, specialized mobile radio, or cellular telephone service; or

"(5) to use a computer or other electronic device to send an unsolicited advertisement via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the advertisement or on the first page of each transmission, the date and time it is sent, an identification of the business sending the advertisement, and the telephone number of the sending machine or of such business.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of telephone network technologies) for protecting such privacy rights, in terms of their cost effectiveness and their other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, or to receiving certain classes or categories of telephone solicitations, and to make that compiled list available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the tele-

phone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in notifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with subsection (b);

"(J) be designed to enable and require States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) Considerations required for use of database method.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after 6 months after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business or other entity sending the advertisement, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 12 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(2) AUTOMATIC TELEPHONE DIALING SYSTEMS.—The Commission shall prescribe technical and procedural standards for automatic telephone dialing systems that are used to transmit any prerecorded telephone solicitation. Such standards shall require that—

"(A) all prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business or other entity; and

"(B) such systems will, as soon as is technically practicable (given the limitations of the telephone exchange service facilities) after the called party hangs up, automatically create a disconnect signal or on-hook condition which allows the called party's line to be released.

"(e) CONSIDERATION OF FACSIMILE MACHINE RESTRICTIONS.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding to prescribe rules to restrict the use of any telephone facsimile machine or computer or other electronic device to send any unsolicited advertisement to the telephone facsimile machine of any person. In establishing such restrictions, the Commission shall consider—

"(1) the extent to which unsolicited advertisements are transmitted through telephone facsimile machines;

"(2) the extent to which recipients of such advertisements incur costs for such receipt; and

"(3) the most cost effective methods of preventing advertising abuses with telephone facsimile machines.

"(f) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits, either or both of the following:

"(1) The use of telephone facsimile machines or other electronic devices to send unsolicited advertisements.

"(2) The use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(g) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of this section shall take effect 30 days after the date that regulations are prescribed under subsection (c).".

SEC. 4. CONFORMING AMENDMENT.

Section 2(b) of the Communications Act of 1934 is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

By Mr. DODD:

S. 1411. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for families, to establish child support assurance demonstration projects, to establish a National Commission on Family Strengths, and for other purposes; to the Committee on Finance.

MIDDLE-INCOME TAX RELIEF AND FAMILY PRESERVATION ACT

Mr. DODD. Mr. President, I rise today to introduce the Middle-Income Tax Relief and Family Preservation Act of 1991.

Throughout our history, Americans have shared a common goal—to make life better for our children than it was for us in our own time. It's a basic axiom which first bound us as a Nation of immigrants and which continues to define us as a Nation and a people. It's a common sense of purpose which makes us the people that we are—hard working, optimistic, and tolerant.

Today—for the first time in our history—America's working families can no longer count on a better life for their children. These families are not the very poor, nor are they the very rich. They are the millions of families who count themselves among that uniquely American institution: The middle class.

Caught in a squeeze between changing family demographics, stagnant income, and rising basic costs, families now question whether the American dream is beyond reach. They ask, Why can't we afford to buy a house? Where do we find affordable child care that is also safe? How can we afford to send our children to college? And finally, they ask, Why doesn't the Tax Code treat our family more fairly?

The economic pressures on working families are severe and getting worse. Incomes for middle-class families have been virtually stagnant, despite the entrance of millions of mothers into the labor force over the past decade. At the same time, rising costs have further pressed tight family budgets. In the past 20 years, median rents have risen from 21 to 29 percent of household income, and the cost of college from 25 to 31 percent of income.

As I travel around my home State of Connecticut, I see families caught in the same squeeze. They earn the Nation's highest median income, but must also endure extremely high basic consumer expenses. While housing costs increased by an average of 300 percent nationally from 1970 to 1990, Connecticut residents faced an average increase of 600 percent during that same period. The cost of child care in our State is 33 percent higher than the national average—$4,500 for preschoolers in Connecticut child care centers, as compared to $3,400 nationally.

I am equally disturbed by the extent to which Federal policies contribute to the economic squeeze for middle-income families. During the 1980's, the burden of Federal taxes shifted from the wealthy to the tired shoulders of the middle class. Between 1977 and 1990, the share of Federal taxes paid by the richest 1 percent of Americans decreased 15 percent, while they increased by almost 2 percent for middle-income taxpayers.

Working families have done their share in the workplace and through their tax payments. Now it's time they receive their fair share. It's time to correct the inequities of the past and to give families the economic tools they need to remain strong and to nurture their children. I believe very strongly that government cannot substitute for the family. But government can help families help themselves.

Today, I am introducing the Middle Income Tax Relief and Family Preser-

vation Act of 1991. This proposal provides tax relief for middle income families by increasing the personal exemption by 50 percent for those in the 15 percent bracket and by 25 percent for those in the 28 percent bracket. To provide special help to families raising young children, the bill also converts the dependent exemption into a $800 tax credit for each child under age 5. To alleviate the high costs of college, my proposal restores the tax exclusion for income from scholarships and fellowships.

I am encouraged by the growing bipartisan consensus in support of tax relief for working families. Just this week the National Commission on Children recommended unanimously a $1,000 tax credit for each American child. This morning, the Subcommittee on Children, Family, Drugs and Alcoholism, which I chair, conducted a hearing on the economic squeeze on working families, the third in a series begun in January. There, Senator COATS, the ranking minority member of the subcommittee, spoke strongly in favor of an increase in the personal exemption, for which he has been pushing hard.

Tax reform alone cannot deal with the root cause of family dissolution which, in turn, exacerbates the external economic squeeze on working families. For example, we know that one-quarter of children today grow up in single-parent families and that these children are four times more likely to live in poverty than other children. The basic problem: Lack of adequate child support from absent parents. The proposal I am introducing today strengthens child support enforcement by the States and establishes assured child support demonstration projects for children whose absent parents cannot be found. Finally, the bill creates a National Commission on Family Strengths to look at questions associated with divorce and its impact on children, in an effort to understand how Federal and State policies can help to strengthen families.

Families are the most basic fabric of our society. Many argue that this fabric is tattered and shattered to the point of dysfunction. I disagree. American families remain resilient and loving, despite tremendous economic pressures and structural changes. This legislation responds to those pressures and changes, in order to better support and encourage families.

Mr. President, I ask uanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Income Tax Relief and Family Preservation Act of 1991".

TITLE I—FAMILY TAX RELIEF

Subtitle A—Personal Exemption Amount

SEC. 101. INCREASE IN PERSONAL EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 151(d) of the Internal Revenue Code of 1986 (defining exemption amount) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'exemption amount' means the sum of—

"(A) a regular exemption amount equal to $2,300, and

"(B) in the case of—

"(i) a 15-percent bracket taxpayer, an additional exemption amount equal to $1,150, or

"(ii) a 28-percent bracket taxpayer, an additional exemption amount equal to $575."

(b) DEFINITIONS.—Subsection (d) of section 151 of such Code is amended by adding at the end thereof the following new paragraph:

"(5) DEFINITIONS RELATING TO ADDITIONAL EXEMPTION AMOUNT.—For purposes of paragraph (1)—

"(A) 15-PERCENT BRACKET TAXPAYER.—The term '15-percent bracket taxpayer' means a taxpayer whose taxable income for the taxable year (determined without regard to the additional exemption amount) is subject to a rate of tax under section 1 not greater than 15 percent.

"(B) 28-PERCENT BRACKET TAXPAYER.—The term '28-percent bracket taxpayer' means a taxpayer whose taxable income for the taxable year (determined without regard to the additional exemption amount) is subject to a rate of tax under section 1 greater than 15 percent but not greater than 28 percent."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 151(d)(4) of such Code is amended—

(1) by striking "1989, the dollar amount" in the matter preceding clause (i) and inserting "1992, each dollar amount", and

(2) by striking "1988" in clause (ii) and inserting "1991".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Refundable Credit for Children

SEC. 111. REFUNDABLE CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. TAX CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $800 multiplied by the number of qualified personal exemptions of the taxpayer for the taxable year.

"(b) QUALIFIED PERSONAL EXEMPTION.—For purposes of this section, the term 'qualified personal exemption' means any personal exemption which (but for section 151(d)(3)) would be allowed to the taxpayer under section 151 for a child of the taxpayer (as defined in section 151(c)) who has not attained age 5 at the close of the calendar year in which the taxable year of the taxpayer begins.

"(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be rounded to the next highest multiple of $10).

"(d) COORDINATION WITH MEANS-TESTED PROGRAMS.—Any refund made by reason of this section, and any payment made under section 7524, shall be treated in the same manner as refunds made by reason of section 32 and payments made under 3507 for purposes of—

"(1) sections 402, 1612, and 1613 of the Social Security Act and title XIX of such Act, and

"(2) the laws referred to in paragraphs (1) through (5) of section 32(j)."

(b) DENIAL OF DEDUCTION FOR PERSONAL EXEMPTIONS OF DEPENDENTS FOR WHICH CREDIT ALLOWED.—Section 151(d) of such Code, as amended by section 101, is further amended by adding at the end thereof the following new paragraph:

"(6) DENIAL OF DEDUCTION FOR PERSONAL EXEMPTIONS FOR WHICH CREDIT ALLOWED.—The exemption amount for any dependent with respect to which a credit under section 35 is allowed for the taxable year shall be zero."

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 35. Tax credit for children.

"Sec. 36. Overpayments of tax."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 112. ADVANCE PAYMENTS OF CREDIT FOR CHILDREN.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. ADVANCE PAYMENTS OF CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 35.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if—

"(1) the taxpayer elects during the preceding taxable year to receive payments under this section during the taxable year,

"(2) the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(A) determine whether the taxpayer will be entitled to a refund by reason of section 35 for the taxable year, and

"(B) estimate the amount of such refund, and

"(3) the Secretary determines that the taxpayer will be so entitled and the estimated amount of such refund (without regard to this section).

"(c) TIMING AND AMOUNT OF PAYMENTS.—

"(1) AGGREGATE PAYMENTS.—The aggregate payments made by the Secretary under this

section to a taxpayer for the taxable year shall equal approximately 80 percent of the Secretary's estimate under subsection (b)(3).

"(2) QUARTERLY PAYMENTS.—The Secretary shall make the payments under this section on a quarterly basis in approximately equal amounts.

"(d) OTHER PROVISIONS.—

"(1) PROCEDURES TO ASSURE PAYMENTS TO INDIVIDUALS HAVING ADJUSTED GROSS INCOMES OF $12,000 OR LESS.—If a taxpayer has an adjusted gross income of $12,000 or less for any taxable year and the Secretary accepts a taxpayer's certification that he reasonably expects that his income tax return for the following taxable year will be substantially similar to his income tax return for the taxable year, the Secretary shall make all reasonable efforts to make payments under this section to such taxpayer for such following taxable year.

"(2) CHANGES IN ESTIMATED REFUND.—If, at any time, the Secretary changes his estimate under subsection (b)(3) for any taxable year, the Secretary may adjust subsequent payments under this section for such taxable year to reflect the new estimate.

"(3) COORDINATION OF PAYMENTS WITH CREDITS.—

"(A) IN GENERAL.—If any payment is made by the Secretary under this section to any taxpayer for a taxable year, then the taxpayer's tax imposed by chapter 1 for such taxable year shall be increased by the aggregate of such payments.

"(B) RECONCILIATION.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by chapter 1 for purposes of determining the amount of any credit allowable under subpart C of part IV of subchapter A of chapter 1 other than the credit allowed by section 35."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Advance payments of credit for children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle C—Scholarships and Fellowships

SEC. 121. RESTORATION OF PRIOR LAW EXCLUSION FOR SCHOLARSHIPS AND FELLOWSHIPS.

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 117. SCHOLARSHIPS AND FELLOWSHIP GRANTS.

"(a) GENERAL RULE.—In the case of an individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) as a fellowship grant,

including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) LIMITATIONS.—

"(1) INDIVIDUALS WHO ARE CANDIDATES FOR DEGREES.—In the case of an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(2) INDIVIDUALS WHO ARE NOT CANDIDATES FOR DEGREES.—In the case of an individual who is not a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), subsection (a) shall apply only if the condition in subparagraph (A) is satisfied and then only within the limitations provided in subparagraph (B).

"(A) CONDITIONS FOR EXCLUSION.—The grantor of the scholarship or fellowship grant is—

"(i) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(ii) a foreign government,

"(iii) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(iv) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

"(B) EXTENT OF EXCLUSION.—The amount of the scholarship or fellowship grant excluded under subsection (a)(1) in any taxable year shall be limited to an amount equal to $300 times the number of months for which the recipient received amounts under the scholarship or fellowship grant during such taxable year, except that no exclusion shall be allowed under subsection (a) after the recipient has been entitled to exclude under this section for a period of 36 months (whether or not consecutive) amounts received as a scholarship or fellowship grant while not a candidate for a degree at an educational institution described in section 170(b)(1)(A)(ii).

"(c) FEDERAL GRANTS FOR TUITION AND RELATED EXPENSES NOT INCLUDABLE MERELY BECAUSE THERE IS REQUIREMENT OF FUTURE SERVICE AS FEDERAL EMPLOYEE.—

"(1) IN GENERAL.—If—

"(A) an amount received by an individual under a Federal program would be excludable under subsections (a) and (b) as a scholarship or fellowship grant but for the fact that the individual is required to perform future service as a Federal employee, and

"(B) the individual establishes that, in accordance with the terms of the grant, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means—

"(i) tuition and fees required for the enrollment or attendance of a student at an institution of higher education, and

"(ii) fees, books, supplies, and equipment required for courses of instruction at an institution of higher education.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized health profession, and

"(iv) is a public or other nonprofit institution.

"(3) SERVICE AS FEDERAL EMPLOYEE.—For purposes of this subsection, service in a health professional shortage area shall be treated as service as a Federal employee.

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(b) CONFORMING AMENDMENTS.—

(1) Section 74(a) of such Code is amended by inserting "and fellowship grants" after "scholarships".

(2) The second sentence of section 1441(b) of such Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are—

"(1) that portion of any scholarship or fellowship grant which is received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is not excluded from gross income under section 117(a)(1) solely by reason of section 117(b)(2)(B); and

"(2) amounts described in subparagraphs (A), (B), (C), and (D) of section 117(a)(2) which are received by any such nonresident alien individual and which are incident to a scholarship or fellowship grant to which section 117(a)(1) applies, but only to the extent such amounts are includible in gross income."

(3) Section 7871(a)(6) of such Code is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E) and by inserting after subparagraph (A) the following new subparagraph:

"(B) section 117(b)(2)(A) (relating to scholarships and fellowship grants),".

(4) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and fellowship grants" after "scholarships" in the item relating to section 117.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

Subtitle D—Revenue Provisions

SEC. 131. INCREASE IN RATE OF INDIVIDUAL INCOME TAX FOR HIGH-INCOME TAXPAYERS.

(a) IN GENERAL.—

(1) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—Subsection (a) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed on married individuals filing joint returns and surviving spouses) is amended by striking the item beginning "Over $78,400" and inserting the following new items:

"Over $78,400 but not over $160,000.	$17,733.50, plus 31% of the excess over $78,400.
"Over $160,000	$43,029.50, plus 34% of the excess over $160,000."

(2) HEADS OF HOUSEHOLDS.—Subsection (b) of section 1 of such Code (relating to tax imposed on heads of households) is amended by striking the item beginning "Over $67,200" and inserting the following new items:

"Over $67,200 but not over $120,000.	$15,429.50, plus 31% of the excess over $67,200.
"Over $120,000	$31,797.50, plus 34% of the excess over $120,000."

(3) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—Subsection (c) of section 1 of such Code (relating to tax imposed on unmarried individuals, other than surviving spouses and heads of households) is amended by striking the item beginning "Over $47,050" and inserting the following new items:

"Over $47,500 but not over $100,000.	$10,645.50, plus 31% of the excess over $47,500.
"Over $100,000	$26,920.50, plus 34% of the excess over $100,000."

(4) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—Subsection (d) of section 1 of such Code (relating to tax imposed on married individuals filing separate returns) is amended by striking the item beginning "Over $39,200" and inserting the following new items:

"Over $39,200 but not over $80,000.	$8,866.75, plus 31% of the excess over $39,200.
"Over $80,000	$21,514.75, plus 34% of the excess over $80,000."

(5) ESTATES AND TRUSTS.—Subsection (e) of section 1 of such Code (relating to tax imposed on estates and trusts) is amended by striking the item beginning "Over $9,900" and inserting the following new items:

"Over $9,900 but not over $12,600.	$2,343, plus 31% of the excess over $9,900.
"Over $12,600	$3,180, plus 34% of the excess over $12,600."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 132. SURTAX ON INDIVIDUALS WITH INCOMES OVER $300,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $300,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $300,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $300,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $300,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $300,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$150,000' for '$300,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part shall be applied—

"(1) after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $300,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 133. INCREASE IN RATE OF CORPORATE INCOME TAX.

(a) IN GENERAL.—Subparagraph (C) of section 11(b)(1) of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking "34 percent" and inserting "35 percent".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 11(b) of such Code (relating to ineligibility of personal service corporations for graduated rate) is amended by striking "34 percent" and inserting "35 percent".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "65 percent".

(2) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "35 percent".

(4) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 134. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended by striking "24 percent" and inserting "27 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE II—ASSURED MINIMUM CHILD SUPPORT DEMONSTRATION PROJECTS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the number of single-parent households has increased significantly;

(2) there is a high correlation between childhood poverty and growing up in a single-parent household;

(3) family dissolution often brings the economic consequence of a lower standard of living for the custodian and children, such that children are nearly twice as likely to live in poverty after such dissolution as before;

(4) one-fourth of single mothers who are owed child support receive none, and another one-fourth receive only partial payments;

(5) single mothers above and below the poverty line are equally likely to receive none of the child support they are owed; and

(6) the failure of children to receive an adequate level of child support limits the ability of such children to thrive and to develop their potential and leads to long-term societal costs in terms of health care, welfare, and loss in labor force productivity.

(b) PURPOSE.—It is the purpose of this Act to enable participating States to establish child support assurance systems in order to improve the economic circumstances of children who do not receive a minimum level of child support from the noncustodial parents of such children and to strengthen the establishment and enforcement of child support awards. The child support assurance approach is structured on a demonstration basis in order to implement and evaluate different options with respect to the provision of intensive support services and mechanisms for administering the program on a national basis.

SEC. 202. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—In order to encourage States to provide a guaranteed minimum level of child support for every eligible child not receiving such support, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to not more than 6 States to conduct demonstration projects for purposes of establishing or improving a system of assured minimum child support payments in accordance with this section.

(b) CONTENTS OF APPLICATION.—An application submitted by the Governor of a State shall—

(1) contain a description of the proposed child support assurance project to be estab-

lished, implemented, or improved using amounts provided under this section, including the specific activities to be undertaken and the agencies that will be involved;

(2) specify whether the project will be carried out throughout the State or in limited areas of the State;

(3) estimate the number of children who will be eligible for assured minimum child support payments under the project, and the amounts to which they will be entitled, on average as individuals and in the aggregate;

(4) describe the child support guidelines and review procedures which are in use in the State and any expected modifications;

(5) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive years beginning with fiscal year 1992;

(6) contain assurances that the State is currently at or above the national median paternity establishment rate (as defined in section 452(g)(2) of the Social Security Act) and that the State will improve the performance of its State agency (designated by the State to carry out the requirements under part D of title IV of the Social Security Act) by at least 4 percent each year in which the State operates a child support assurance project under this section in—

(A) the number of cases in which paternity is established when required;

(B) the number of cases in which child support orders are obtained; and

(C) the number of cases with child support orders in which collections are made;

(7) contain assurances that, to the maximum extent possible under current law, the State will use Federal, State, and local job training assistance to assist individuals who have been determined to be unable to meet such individuals' child support obligations;

(8) describe the extent to which multiple agencies, including those responsible for administering the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act and child support collection, enforcement, and payment under part D of such title, will be involved in the design and operation of the child support assurance project; and

(9) contain such other information as the Secretary may require by regulation.

(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project designed to provide a minimum monthly child support benefit for each eligible child in the State to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) REQUIREMENTS.—(1) A child support assurance demonstration project funded under this section shall provide that—

(A) any child (as defined in paragraph (2)) with a living noncustodial parent for whom a child support order has been sought (as defined in paragraph (3)) or obtained and any child who meets "good cause" criteria for not seeking or enforcing a support order is eligible for the assured child support benefit;

(B) the assured child support benefit shall be paid promptly to the custodial parent at least once a month and shall be—

(i) $3,000 per year minimum for the first child, and $1,000 per year minimum increments for the second and each subsequent child;

(ii) offset and reduced to the extent that the custodial parent receives child support in a month from the noncustodial parent;

(iii) indexed and adjusted for inflation; and

(iv) in the case of a family of children with multiple noncustodial parents, calculated in the same manner as if all such children were full siblings, but any child support payment from a particular noncustodial parent shall only be applied against the child support assured benefit for the child or children of that particular noncustodial parent;

(C) for purposes of determining the need of a child or relative and the level of assistance, one-half of the amount received as a child support payment shall be disregarded from income until the total amount of child support and Aid to Families With Dependent Children benefit received under part A of title IV of the Social Security Act equals the Federal poverty level for a family of comparable size;

(D) in the event that the family as a whole becomes ineligible for Aid to Families With Dependent Children under part A of the Social Security Act due to consideration of child support assurance benefits, the continuing eligibility of the caretaker for Aid to Families With Dependent Children under such title shall be calculated without consideration of the child support assured benefit; and

(E) in order to participate in the child support assurance project, the child's caretaker shall apply for services of the State's child support enforcement program under part D of title IV of the Social Security Act.

(2) For purposes of this section, the term "child" means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by the law of the State in which such individual resides.

(3) For purposes of this section, a child support order shall be deemed to have been "sought" where an individual has applied for services from the State agency designated by the State to carry out the requirements of part D of title IV of the Social Security Act or has sought a child support order through representation by private or public counsel or pro se.

(e) CONSIDERATION AND PRIORITY OF APPLICATIONS.—(1) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve not more than 6 applications which appear likely to contribute significantly to the achievement of the purpose of this section. In selecting States to conduct demonstration projects under this section, the Secretary shall—

(A) consider the geographic dispersion and variation in population of the applicants;

(B) give priority to States the applications of which demonstrate—

(i) significant recent improvements in enforcement of child support awards and collection of child support payments; and

(ii) that efforts will be made to link child support systems with other service delivery systems; and

(C) ensure that, if feasible, the States selected use a variety of approaches for child support guidelines.

(2) Of the States selected to participate in the demonstration projects conducted under this section, the Secretary shall require, if feasible—

(A) that at least 2 or more of such States provide intensive integrated social services for low-income participants in the child support assurance project, for the purpose of assisting such participants in improving their employment, housing, health, and educational status; and

(B) that at least 2 or more such States plan to cooperate and to integrate interstate establishment and enforcement of child support awards.

(f) EVALUATION AND REPORTS.—(1) Each State that conducts a demonstration project under this section shall, as a part of such demonstration project, conduct an interim and a final evaluation of the effectiveness of the demonstration project and shall submit an interim and final report to the Secretary concerning the results of the evaluation and any improvements in child support enforcement.

(2) The evaluation and report submitted by a State to the Secretary shall analyze and describe (in such a manner as prescribed by the Secretary)—

(A) the impact of the child support assurance project on the economic and noneconomic well-being of children and adults in both custodial and noncustodial households;

(B) the work force participation rates of both custodial and noncustodial parents as a result of participation in the child support assurance project;

(C) the impact of the child support assurance project on Aid to Families With Dependent Children participation rates, grants, and funding levels;

(D) a comparison of enforcement effectiveness in intrastate and interstate cases;

(E) the impact on custodial and noncustodial families of access to intensive integrated services for custodial families and to job training services for noncustodial parents;

(F) the impact of child support guidelines on the effectiveness of the child support assurance project and the economic well-being of children and adults in both custodial and noncustodial families;

(G) administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the collection of adequate child support payments from noncustodial parents;

(H) the measures that the State has taken or intends to take to eliminate or reduce impediments described in subparagraph (G) that are attributable to administrative policies and laws of the State or a political subdivision of the State; and

(I) any other relevant items as the Secretary may require.

(g) DURATION.—A demonstration project conducted under this section shall be commenced not later than fiscal year 1992 and shall be conducted for not less than 3 and not more than 5 consecutive years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(h) COST SAVINGS RECOVERY.—The Secretary shall develop a methodology to identify any State cost savings realized in connection with the implementation of a child support assurance demonstration project conducted under this Act. Any such savings realized as a result of the implementation of a child assurance demonstration project shall be utilized for child support enforcement improvements or expansions and improvements in the Aid to Families With Dependent Children Program conducted under part A of title IV of the Social Security Act within the participating State, and Federal expenditures for such project within the State shall be reduced in proportion to any such savings.

(i) EVALUATION AND REPORT TO CONGRESS.—Three and 5 years after commencement of the first State child support assurance dem-

onstration project, the Secretary shall conduct an evaluation of each such demonstration project and submit a report to the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives concerning the effectiveness of the child support assurance demonstration projects funded under this section. Such report shall analyze the reports received by the Secretary under subsection (f) from each participating State and shall compare the effects of different types of child support guidelines.

(j) RESTRICTIONS ON MATCHING AND USE OF FUNDS.—(1) A State conducting a demonstration project under this section shall be required—

(A) except as provided in paragraph (2), to provide not less than 20 percent of the total amounts expended in each calendar year of the project to pay the costs associated with the project funded under this section; and

(B) to maintain its level of expenditures for child support collection, enforcement, and payment at the same level, or at a higher level, than such expenditures were prior to such State's participation in a demonstration project provided by this section.

(2) A State participating in a demonstration project under this section may provide no less than 10 percent of the total amounts expended to pay the costs associated with the project funded under this section in years after the first year such project is conducted in a State if the State meets the improvements specified in paragraph (6) of subsection (b).

(k) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

(1) the United States Housing Act of 1937;

(2) title V of the Housing Act of 1949;

(3) section 101 of the Housing and Urban Development Act of 1965;

(4) sections 221(d)(3), 235, and 236 of the National Housing Act;

(5) the Food Stamp Act of 1977;

(6) title XIX of the Social Security Act; and

(7) child care assistance provided through part D of title IV of the Social Security Act, the Child Care and Development Block Grant, or title XX of the Social Security Act,

any payment made to an individual for child support up to the amount which a child support assurance benefit would provide shall not be treated as income and shall not be taken into account in determining resources for the month of its receipt and the following month.

(l) TREATMENT OF CHILD SUPPORT BENEFIT.—Any assured child support benefit received by an individual under this title shall be considered child support for purposes of the Internal Revenue Code of 1986.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the account established in subsection (n) such sums as may be necessary in each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the purposes of this section.

(n) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby created on the books of the Treasury of the United States an account consisting of such amounts as may be appropriated to such account as provided in paragraph (2).

(2)(A) There are appropriated to the account and available for expenditure amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by subtitle D of title I of this Act to the extent necessary to satisfy the authorizations of appropriations under subsection (m).

(B) The amounts appropriated by subparagraph (A) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the account.

TITLE III—NATIONAL COMMISSION ON FAMILY STRENGTHS

SEC. 301. ESTABLISHMENT OF NATIONAL COMMISSION ON FAMILY STRENGTHS.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Commission on Family Strengths" (hereafter in this title referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of 21 members, of which—

(A) seven members shall be appointed by the President;

(B) seven members shall be appointed by the Speaker of the House of Representatives; and

(C) seven members shall be appointed by the President pro tempore of the Senate.

(2) REPRESENTATION.—The members of the commission shall be appointed under paragraph (1) from among individuals who—

(A) are representative of organizations providing services to children and families;

(B) have engaged in academic research with respect to the problems and needs of children and families;

(C) are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children and families;

(D) are parents or representatives of parents or parents' organizations;

(E) are members of the judiciary with responsibility for family law matters; and

(F) are members of a family law bar association.

(3) CONSULTATION.—The appointments shall be made under paragraph (1) after consultation with the chairpersons of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

(4) EX OFFICIO MEMBER.—The Secretary of Health and Human Services shall serve as an ex-officio member of the Commission.

(5) TERMS.—Each member of the Commission shall serve for a term of 2 years, except that 9 of the initial members (3 of each group appointed under subparagraphs (A), (B) and (C) of paragraph (1)) of the Commission shall serve for a term of 1 year.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(7) QUORUM.—Eleven members of the Commission shall constitute a quorum for purposes of the business of the Commission, but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet not less than four times each year at the call of the Chairperson.

(9) VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in such membership shall not affect its powers and shall be filled in the same manner as the original appointment.

(10) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the members of the Commission.

(2) OTHER PERSONNEL.—The Commission may appoint and terminate the executive director under paragraph (1) and such other personnel as it considers appropriate to assist in the performance of its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct public hearings and enter into contracts or cooperative agreements for the facilitation of expert studies and reports in order to receive diverse opinions concerning ways to strengthen and preserve families and to enhance the economic and noneconomic status of children.

(2) STUDY AND REPORT TOPICS.—The Commission shall include the following matters in the studies, reports and hearings undertaken under paragraph (1):

(A) ENHANCING FAMILY STABILITY.—Matters relating to approaches that may enhance family stability that the Commission may elect to pursue, including—

(i) the manner in which educational programs provided for young people prior to their marriage may help decrease the possibility of later divorce;

(ii) the manner in which the accessibility and effectiveness of counseling for troubled families can be improved;

(iii) whether special procedures for divorce, including waiting periods, should be utilized for families in which children are involved; and

(iv) the role of mediation or conciliation, both voluntary and mandatory, in divorce proceedings, including those in which children are involved.

(B) ECONOMIC IMPACT OF DIVORCE.—Matters relating to the economic impact of divorce on children that the Commission may elect to pursue, including—

(i) the manner in which divorce affects the standard of living of parents and children;

(ii) whether child support awards are modified appropriately over time; and

(iii) whether any detrimental economic impact of divorce on children could be mitigated through a requirement that all children's economic issues be resolved prior to other distributions of marital property.

(C) NONECONOMIC IMPACT OF DIVORCE.—Matters relating to the noneconomic impact of divorce on children that the Commission may elect to pursue, including—

(i) the manner in which conflict during divorce proceedings can be minimized, especially when custody is disputed; and

(ii) the manner in which effective assistance can be provided to children during and after the divorce of their parents, including school-based programs.

(D) ROLE OF THE JUDICIARY.—Matters relating to the role of the judiciary in helping to preserve families that the Commission may elect to pursue, including—

(i) the manner in which the judiciary can be best informed and trained regarding the impact of divorce and divorce proceedings on children; and

(ii) whether courts should be encouraged to provide certain social services to families contemplating or undergoing divorce.

(3) RECOMMENDATIONS AND REPORTS.—

(A) RECOMMENDATIONS.—The Commission shall compile and analyze the findings of the Commission with respect to the topics described in paragraph (2) and related matters and shall develop recommendations for—

(i) Federal and State policies to strengthen and preserve families; and

(ii) model State legislative reforms where appropriate.

(B) REPORTS.—Not later than March 31, 1994, the Commission shall prepare and submit to the President, the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives, an interim report concerning the recommendations developed under subparagraph (A). Not later than September 30, 1994, the Commission shall prepare and submit to the President and such Committees, a final report concerning such recommendations.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission, or any duly organized committee thereof, may for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such committee determines appropriate. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or committee thereof.

(2) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

By Mr. STEVENS (by request):

S. 1412. A bill to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

POSTAGE RATE REFORM ACT

Mr. STEVENS. Mr. President, today I am introducing legislation to reduce the cost, to the taxpayers, of Federal subsidies for certain nonprofit and other mailers, and still protect nonprofit organizations that provide an essential service to the American public.

As we all know, this subsidy, which is appropriated to the U.S. Postal Service, is entitled by Revenue Forgone. Soon we will be dealing with the Treasury/Postal Subcommittee appropriation bill. The level of funding for this category is in severe jeopardy. Unless we prioritize just who should receive funding for subsidized mailing, almost all worthy recipients of Revenue Forgone will suffer.

The Appropriations Committee must decide if it is more important to increase funding for drug interdiction programs, and to improve the security of our borders, or if it is more important to subsidize mailings by university pamphlets urging tours of the fjords of Norway.

The bill I am introducing, by request, is the administration's bill from last year. It is based on the Postal Rate Commission's study mandated by Congress in 1985. It is a starting point for discussion. I hope my colleagues will study this bill over the recess so we can move on this issue before the Treasury/Postal appropriations bill comes before us in July We must do something this year to resolve this issue.

Mr. President, I ask unanimous consent to have the entire text of the bill and the accompanying section-by-section analysis printed in the RECORD.

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

S. 1412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Postage Rate Reform Act of 1990".

SEC. 2. RESTRICTION OF POSTAGE SUBSIDIES.

(a) COMMERCIAL SERVICES; POLITICAL ADVOCACY; ADVERTISING; EDUCATIONAL ORGANIZATIONS OTHER THAN SCHOOLS.—Section 3626 of title 39, United States Code, is amended by adding the following subsections:

"(j) For purposes of this section, the rates for mail under former section 4452 (b) and (c) shall not apply to any matter which advertises—

"(1) an article or product, unless more than half of the labor of producing or assembling the article or product has been performed by members of the mailing organization or by persons for whose benefit the mailing organization was established;

"(2) travel or insurance;

"(3) any other service, unless the service is provided by members of the mailing organization or by persons for whose benefit the mailing organization was established; or

"(4) a gift or premium offer unless the gift or premium may be kept by the addressee whether or not a contribution is made.

"(k) The rates for mail under former subsections 4452 (b) and (c) of this title shall not apply to any matter which attempts to influence legislation or to influence a partisan election.

"(1) If the advertising portion of an issue of a publication exceeds 10 percent of such issue, the publication shall not be eligible for rates established under this section for mail under former subsection 4358(d).

"(m) For purposes of this section, a nonprofit organization or association shall be considered to qualify as "educational," as that term is used in former sections 4358, 4452, and 4554 of this title, only if its primary purpose is to administer a course or courses of instruction through a teacher-student relationship in school.".

(b) PUBLISHER MAILINGS AT LIBRARY RATE.—Section 3683 of title 39, United States Code, is amended by striking out "(a)" and by striking out subsection (b).

SEC. 3. POSTAGE RATES FOR GOVERNMENT MAIL.

(a) PRINCIPLE FOR SETTING GOVERNMENT RATES.—Section 3622 of title 39, United States Code, is amended by adding at the end the following new subsection:

"(d) In establishing rates or fees for each class of mail or type of service, it shall be a policy of this title that rates charged the Federal Government for any class of mail or type of service shall not exceed:

"(1) the direct and indirect postal costs attributable to it, plus

"(2) an assignment of other costs of the Postal Service in an amount which bears the same ratio to such attributable costs assigned under subsection (b)(3) of this section as other mail of the same class or type but not sent under chapter 32 of this title bears to the attributable costs of such other mail.".

(b) TRANSITIONAL POSTAGE CHARGES.—From October 1, 1991, until such time as rates of postage are changed under title 39, United States Code, as amended by subsection (a), the United States Postal Service, in determining the equivalent of postage on penalty and franked mail as required under sections 3206 and 3216 of such title, shall take into consideration such differences in attributable costs between such mail and non-Government mail as are reflected in the record of Postal Rate Commission Docket No. R87-1.

SEC. 4. EFFECTIVE DATE.

This Act is effective October 1, 1991.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

Sec. 2. This section amends 39 U.S.C. 3626 and 3683 to tighten eligibility requirements for reduced rate mailings, and to cure defects which have enabled such rates to be used for purposes not warranting public financial support. These reforms would curtail the use of reduced rates to send advertising mail and political advocacy mail, and stop the use of favored library rates by publishers and distributors. This section would also limit qualification as a nonprofit "educational" organization to those involving courses of instruction with a teacher-student relationship.

Sec. 3. This section establishes, as a policy to be used in postal rate proceedings, the principle that rates and fees paid by the Federal Government for a class of mail or type of service should not exceed certain costs. These costs are the actual costs of delivering Government mail, plus the same percentage of other postal costs as is charged in the rates for comparable commercial mailings. The Federal Government, like other mailers, would be able to file a complaint with the Postal Rate Commission if this policy is not implemented with respect to a particular class of mail or type of mail service. Subsection (b) provides that until the next postal rate proceeding is completed, the Postal Service must estimate the appropriate charges using the attributable cost data for penalty and franked mail that appears in the record of the last postal rate case, Docket No. R87-1.

The practical effect of this change is that the rate for Federal mail would reflect actual costs attributable to delivering it, which are in most instances lower than the generally applicable rates.

Sec. 4. This section provides that the provisions of the Act take effect October 1, 1991.

Mr. KENNEDY (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. CRANSTON, and Mr. WELLSTONE):

S. 1413. A bill to encourage the termination of human rights abuses inside the People's Republic of China and

Tibet; to the Committee on Foreign Relations.

TERMINATION OF HUMAN RIGHTS ABUSES IN CHINA

Mr. KENNEDY. Mr. President, the continuing imprisonment, torture, and execution of members of the pro-democracy movement in China make it more important than ever that we review our actions in that part of the world to ensure that Americans are working with, and not against, the forces of freedom.

Today, jailed Tiananmen Square activists and Buddhist monks are being subjected to forced labor to assemble products for export to the United States, German, and Japanese markets. Many firms in the free world have become unknowing partners in deals with prison camps.

The United States should be doing more to end these human rights abuses. The bill I am introducing today with Senators GRASSLEY, DECONCINI, CRANSTON, and WELLSTONE would enlist U.S. businesses in this effort.

This legislation requires U.S. nationals engaged in commercial activities in China to follow certain guidelines in conducting business. Legislation nearly identical to this, H.R. 1571, was introduced in the House on March 21st by Representative JOHN MILLER, of Washington, and has been incorporated into the House Foreign Aid Authorization bill.

Prisoners, including large numbers of political prisoners, are an integral part of China's labor force. Products from forced labor camps are sold in domestic and foreign markets and have become a large component of the Chinese economy. One-third of the tea produced in China, for example, comes from labor camps.

Prisoners mine, manufacture, and harvest a variety of other products, including coal, textiles, steel, machine tools, automobiles, chemicals, electronic goods, fans, shoes, ceramics, and over 20 agricultural products, including soybeans, fruits, rice, wheat, and corn.

The Chinese Government has actively—and successfully—sought United States markets for these goods. In 1980, China exported $1.1 billion in goods to the United States, compared to United States exports to China of $3.7 billion. In 1990, however, China exported $15.2 billion in goods to the United States, compared to United States exports to China of only $4.8 billion—handing China a trade surplus of $10.4 billion. This year, that gap is likely to rise to at least $15 billion, ranking China's trade advantage over the United States behind only Japan and Taiwan.

In scope, number of camps and prisoners, and degree of cruelty, these forced labor camps are deplorable. Between 4,000 and 6,000 exist in China and Tibet, and 10 to 20 million people are detained. Each camp typically has two names; one denotes its prison status, such as Cheng Tao Jail No. 1, and the other is used to reflect its role as a business enterprise, such as the Cheng Tao Machinery Factory.

Large numbers of the forced laborers are political detainees. Few have had trials. Typically, they are sent to the camps on vague counterrevolutionary charges. Prisoners work up to 15 hours a day and are not allowed to speak to one another. Torture with cattle prods for disobedience is common. Incarceration ends only when party officials deem their attitude corrected. Even then, it is common for released prisoners to be required to return to work in the prison each day for the rest of their lives.

The United States should speak out against this shameful repression, and U.S. business should do its part, too. Our increasing commercial ties with China should not be at the expense of the forced labor of Chinese and Tibetan political prisoners.

This legislation requests United States nationals participating in joint ventures in China and Tibet to follow nine important principles:

First, to refrain from using products made by forced labor;

Second, to safeguard employees from dismissal because of their political beliefs, participation in non-violent demonstrations, past records of arrest for non-violent protests, or membership in organizations committed to non-violence;

Third, to ensure that business operations do not harm the environment;

Fourth, to use businesses not controlled by the Chinese Government when looking for business partners in China;

Fifth, to prohibit any military presence on the premises of industrial cooperation projects;

Sixth, to promote freedom of association and assembly among employees;

Seventh, to press Chinese authorities for a list of those arrested since the massacre in Tiananmen Square in 1989, for an end to secret detention, and for access by international observers to places of detention;

Eighth, to avoid political indoctrination programs on company premises; and

Ninth, to promote freedom of expression for workers.

Current law prohibits the importation of products produced from forced labor, and the bill requires the Secretary of State to submit annual reports on procedures taken to enforce this law and on which goods produced in China and Tibet are the product of forced labor.

The bill also requires the Secretary of State to report to Congress on whether U.S. companies are complying with these principles. Two years after enactment of the bill, companies not adhering to the principles would lose export marketing support from the U.S. Government.

The U.S. Government should not be supporting American businesses overseas that participate in basic violations of human rights.

Congress needs to take a strong stand against the gross injustices of forced labor. Our message of support for human rights in China is strongest if private industry and the government speak with one voice. I urge my colleagues to join me in passing this legislation.

By Mr. AKAKA:

S. 1414. A bill to establish a higher education loan demonstration program in 10 congressional districts in which the amount of a student's loan repayment is dependent upon such student's income; to the Committee on Labor and Human Resources.

INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOAN ACT

Mr. AKAKA. Mr. President, the reauthorization of the Higher Education Act is without doubt one of the single most important pieces of social legislation the Senate will consider in this session of the 102d Congress. Of primary concern to me is title IV of the act, which in fiscal year 1991, provided about $18 billion in student aid to help financially needy students attend post-secondary colleges, universities, and trade and technical schools.

Today, Mr. President, I am introducing the Income Dependent Educational Assistance Loan Act of 1991 [IDEAL]. The bill would establish an IDEAL student loan demonstration program in 10 congressional districts. Under an IDEAL loan, each student borrower would be obligated to pay back—typically over a 25-year period—his or her loan at a predetermined and unchanging fixed percentage of current income, thus making the loan repayment "income dependent."

What makes the proposed income dependent loan program attractive is that the loan repayment schedule takes into account a key factor in loan servicing—an individual's ability to repay. When employed, a fixed percentage of an individual borrower's pay would be automatically withheld by his or her employer and forwarded to the Federal Government as a partial loan repayment. If a borrower, however, becomes unemployed, takes a maternity leave, or becomes disabled, his or her payments would be temporarily reduced for that period of time the individual is out of the work force.

I am introducing this legislation because I am concerned that under current student financial aid programs, many middle-income families are being forced to assume massive loans to send their children to college. In the case of low-income families, I fear that a large number of very able students are simply abandoning their college aspira-

tions altogether because grants and loans are either unavailable or insufficient to meet their education costs.

In advancing my proposal, I should note that the concept of low cost, income dependent student loans is not new. My proposal is unique, however, because IDEAL student loans would be universally available to all students without regard to family income or equity assets held.

Also, it is important to understand that the establishment of an IDEAL student loan program is intended to supplement, but not replace, existing Federal grant and workstudy programs. In fact, I believe that including an IDEAL loan program in the Higher Education Act reauthorization bill would result in the availability of additional Federal resources for grant in aid programs for the truly needy. At the same time, IDEAL loans would equally benefit the middle class who are struggling to cope with the spiraling cost of education, but are presently barred from Federal loan programs because they fail the so-called "needs-tests" which determine eligibility.

Mr. President, I have with me a summary of the provisions of the IDEAL program, and I request unanimous consent that it be printed in the RECORD at this point of my statement.

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

INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOAN PROGRAM SUMMARY

Eligibility:

All citizens of the United States under 56 years of age.

Awards:

Maximum award of $10,000 per year; $40,000 in lifetime.

Actual award may not exceed the cost of tuition and room and board plus a stipulated amount for miscellaneous educational related expenses.

Awards may be used at any state accredited or licensed postsecondary institution, including vocational schools and new "apprenticeship" programs.

Repayment Rates:

Repayment is income-dependent.

Repayment rate is based on amount of award, age of recipient, and the year of the award.

Repayment rates apply only to first $50,000 of earnings.

Maximum repayment period is 25 years.

No repayments beyond age 65.

Notification of Employers:

Recipients are notified of award by IDEAL Fiduciary Trust.

Recipients obligated to notify employers of IDEAL repayment rate.

Employers responsible for withholding.

Self-employed recipients must file quarterly with IRS.

Functions of IDEAL Trust:

Processing applications: Applications are made directly to the IDEAL Trust agency. It verifies eligibility, grants investment awards, and notifies recipients of their IDEAL rate and the terms of their payment obligations. Funds are not released directly to the recipient but to the institution or training program in which the recipient is enrolled. These institutions and programs provide local administration of the investment award for a modest fee.

Managing the IDEAL trust fund: The agency obtains funds from the sale of U.S. Treasury bonds.

Establishing repayment rates: The agency will determine the IDEAL rates in accord with prevalent economic conditions and projections. The rate schedules for future participant cohorts are periodically reviewed and adjusted in order to maintain the integrity of the fund.

Coordinating repayments from participants via IRS.

Mr. President, if I may, I would like to take just a few minutes to expand my remarks on why this legislation is needed. As you know, over the past several weeks, Congress has been conducting hearings on various aspects of the student financial aid issue. Two questions receiving significant attention are how to meet the needs of low-income and middle-income families and how to find an appropriate balance between grant and loan assistance.

The administration's fiscal year 1992 education budget would significantly reduce Federal student financial assistance for most middle-class families. In fact, Mr. President, over the past 10 years of Republican administrations, the typical student Federal aid package has shifted from three-quarters grants and one-quarter loans to a point where it is almost the reverse. Moreover, Federal grant programs have failed to keep up with the soaring costs of college. In 1979, the maximum Pell grant covered 46 percent of average college costs. By 1989, it covered only 21 percent. The difference was made up by loans.

These figures do not tell the whole story, however, since many students from low-income families lowered their educational sights and simply gave up the hope of obtaining a college education. As a result, according to information contained in a recent American Council on Education report, the 41 percent in access gains made by low-income students into colleges between 1966 and 1977 were lost by 1987. Since 1981, the proportion of freshmen from low-income families enrolled in universities dropped by nearly half, from 18.5 to 9.7 percent.

To put this in perspective, we must remember that over 95 percent of all Federal higher education dollars go to student aid. When Congress reauthorizes the Higher Education Act later this year, it is my belief that we should strengthen, rather than diminish, the historical commitment we have made to the young people of our country in providing such assistance. I also believe the heavy reliance on traditional fixed repayment educational loans to finance postsecondary education has put many students and their families deeply in debt. As a consequence, I fear many young people are being driven away from public service occupations such as teaching, nursing, and other social service jobs in order to repay their student loans.

A review of the higher education financing landscape indicates that when it comes to paying for the costs of attending college, the wealthy and a small but select number of low-income students have things pretty well in hand. Wealthier students, by virtue of their family's economic circumstances, generally pay these costs out of existing assets. High ability low-income students, on the other hand, without either assets or resources, have available to them an array of Government and private sector grants and scholarships. Regrettably, Mr. President, most low-income and all moderate-income families have pretty much been left to fend for themselves. As I noted earlier, more often than not, middle-income parents have found no alternative but to assume massive loans to enable their children to attend college. In the case of low-income families, these students are forced to discard their college aspirations altogether because grants and/or loans are insufficient to meet their college costs.

The administration's fiscal year 1992 education budget proposals, if enacted, would only add to the misery and apprehension of middle-income families who hope to send a son or daughter to college next fall.

For example, under the administration's budget, a student from a family whose income is $20,000, and who attends a 4-year State college, would receive 40 percent less in fiscal year 1992 under the Pell Grant Program. This would be $628 less than he receives this year. Even worse, a community college student with a family income of $20,000 would see a 73-percent reduction in his or her grant award under the Bush plan.

The administration's retargeting of Pell Grant aid would generally take funds away from families who have a limited amount of income to send a son or daughter to college. Even with the financial aid benefits provided under current law, these families are already struggling to meet college costs.

The President's education budget also calls for altering the eligibility formula for Federal financial student aid. Eligibility requirements would be tightened, and funding would be reduced, for supplemental educational opportunity grants and college work study. Estimates show that about 750,000 middle-income students no longer would be eligible for aid under the Bush proposal.

Needless to say I do not believe the White House budget adequately addresses the pressing needs of these American families who are having a difficult time sending their children to college or other postsecondary training programs. What we are finding is that without some type of Federal relief, an increasing number of middle-income

families will be without the necessary resources to meet the rising costs of a college education for their children.

It is for these reasons, Mr. President, that the establishment of an income dependent student loan program such as IDEAL makes good sense. It meets a prevailing need, and from a public policy perspective, is based on sound financing utilizing proven and widely accepted actuarial principles. In addition, since the borrowing power of the Federal Government is being used to initially fund the program, the cost of borrowing will be kept to the absolute minimum. Moreover, since IDEAL is a direct loan program, the Government will be buying capital wholesale, so to speak, rather than retail, as is true under current guaranteed loan programs now in force using private capital and commercial banks for the source of funds. And we shouldn't lose sight of the fact that over the long term the IDEAL Program is ultimately self-financing as the pool of borrowers grows and payback contributions expand.

In practical terms, Mr. President, restructuring postsecondary education financing along the lines spelled out in my IDEAL bill, would respond to a number of problems inherent in the federally sponsored student financial aid programs currently available. In this regard, University of Massachusetts economist, Barry Bluestone, and his colleagues, Alan Clayton-Matthews, John Havens, and Howard Young, recently produced an economic policy institute briefing paper proposing an income dependent loan program. Although the Bluestone group's proposal uses a funding mechanism completely different from the one in my bill, they suggest that an income dependent loan program such as IDEAL would prove to be beneficial for the following reasons:

First, a universal income dependent loan program eliminates much of the morass of current Federal loan programs in favor of one, comprehensive plan available to all postsecondary students;

Second, it provides a substantially greater amount of funds under superior terms to most current programs, thus allowing students to better meet the rising cost of postsecondary education;

Third, it is available to all students in accredited postsecondary schools regardless of family income. There is no needs test. It is a middle-class program every bit as much as one aimed at the low, and moderate income student;

Fourth, since repayment is based on actual earnings, there is effective deferral or principal and interest as long as the student is pursuing full-time studies and has little wage and salary income;

Fifth, as a result of income dependency and IRS collection, defaults are virtually eliminated—something that now costs the U.S. Treasury in excess of $1.5 billion a year. Moreover, stricter licensing of trade schools with State oversight boards partially funded by a portion of the program's administrative fees would provide effective sanctions against schools that are supplying inadequate or inappropriate training to students. This would reduce the number of students whose incomes were not enhanced by their schooling;

Sixth, it applies equally to all forms of postsecondary schooling from apprenticeships and proprietary trade institutions to graduate and professional schools. It does not discriminate between the student who pursues, for instance, an undergraduate degree in political science and one who seeks retraining as a welder or office machine repairer;

Seventh, racial and gender discrimination in the labor market is not automatically ratified as is the current practice under fixed obligation loans. The income dependent feature of the program requires students to repay based on actual earnings and therefore takes full account of differences in earnings which arise for any reason;

Eighth, because the program is income dependent, students will be more likely to enroll in programs that conform to their academic strengths and career goals than in programs which simply hold out the promise of spectacularly high earnings that can be used to repay fixed short-term loans. This may mean slightly fewer students opting for law careers and MRAs and slightly more students preparing for careers in elementary and secondary school teaching, nursing, and other fields where the monetary rewards are smaller but the contribution to society is arguably no less and very likely greater;

Ninth, under this program, students can pay for their own education as the benefits from that education become manifest. More importantly, this will release most parents of at least some of the heavy burden of funding their children's education; and

Finally, an income dependent program such as IDEAL, by eliminating the need for the Stafford and Perkins loan programs, frees up $5.1 billion of Federal education spending per year. These dollars—or at least a portion of them—could be used to expand the Pell and SEOG grant programs for the most financially disadvantaged students.

There are likely to be other benefits as well, Mr. President, not the least of which is simplified and cheaper administration of education loans. The bottom line, however, is that the IDEAL loan program is needed today to provide student financial aid relief to middle-income families and educational security to low-income students as they face the spiraling costs of attending postsecondary institutions of higher education.

By Mr. PELL:

S. 1415. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on Rules and Administration.

ADDITIONAL MEMBERSHIP ON THE LIBRARY OF CONGRESS TRUST FUND BOARD

Mr. PELL. Mr. President, as chairman of the Joint Committee on the Library, I am introducing a bill requested by the Librarian of Congress to expand the membership of the Library's Trust Fund Board and to authorize the Librarian to make temporary investment of receipts.

This bill is identical to S. 2758 which I introduced in the 101st Congress and which the Senate passed on September 18, 1990, but which was not acted on by the House.

The Library of Congress Trust Fund is an important mechanism for helping to fund the extensive operations of our great national Library. The Librarian, Dr. James Billington, has explained the need for the increased range and flexibility which this bill would provide in a letter which I ask unanimous consent be printed in the RECORD at this point.

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

THE LIBRARIAN OF CONGRESS,
Washington, DC, May 24, 1991.

Hon. CLAIBORNE PELL,
Chairman, Joint Committee on the Library,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing draft legislation which would provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes. The Senate passed this legislation last year, but the House failed to act on it.

This legislation would do the following: (1) increase the public membership of the Board from two to ten; (2) increase the number of board members who shall constitute a quorum from three to nine; and (3) give the Librarian of Congress authority to make immediate temporary investments of monies received until the Board has formally made a determination as to their investment.

Let me address the substance of these amendments.

Board: The Library of Congress Trust Fund Board has only two public members appointed by the President, the Secretary of the Treasury or his designee, the Chairman of the Joint Committee on the Library, and the Librarian of Congress. It is my desire to enlist the assistance of public members of the Board in soliciting gifts and bequests to the Library. Two public members are obviously not sufficient to assist a national institution in building an endowment that would be suitable to enhance the effectiveness of the Library's educational and cultural programs for the nation. This bill increases the membership to 10, 4 members of whom shall be appointed by the Speaker of the House of Representatives, and 4 members of whom shall be appointed by the President pro tempore of the Senate. Comparable boards for national institutions have at least. 10 public members. I believe the increase will help enlist financial support of the Library of Congress on a nation-wide basis.

Quorum: Raising the number needed for a quorum relates to the increased membership of the Board.

Librarian's authority for temporary investment: This amendment is requested because funds presently cannot be invested until the Library of Congress Trust Fund Board is polled and all the members vote on the investment. Under the proposed amendment, the Librarian of Congress would have authority to invest gifts of cash temporarily in order for interest to be earned from the time the principal is received by the Library. An accounting for this temporary investment, of course, would be made to Congress and to the Board on an annual basis.

Library of Congress trust funds have not kept pace with increases in appropriated funds as they should have over the past several decades. Our trust funds today provide 2.5 percent of total income compared with 6 percent in 1968. I believe this legislation will help us revitalize the Trust Fund Board and make it an active supportive agent for the Library of Congress in enlisting private sector support. I urge that we move ahead quickly with legislation to expand the Library of Congress Trust Fund Board.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

By Mr. PELL:

S. 1416. A bill to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services; to the Committee on Rules and Administration.

LIBRARY SERVICE FEES

Mr. PELL. Mr. President, in my capacity as chairman of the Joint Committee on the Library, I am introducing today legislation requested by the Librarian of Congress to provide a full statutory base of authority for the Library to charge fees for certain services to the public.

This proposed legislation has been prompted in large part by technological advances which were totally unknown when Congress first enacted authority in 1902 for the Library to sell copies of its card catalog and other publications. The bill will provide for fee-based services such as specialized searches of computerized data bases and public access to on-line computer files in the Library reading rooms.

I note that the bill would not encroach on services presently provided without fee by the Library.

I ask unanimous consent to have printed in the RECORD at this point a letter from the Librarian of Congress, Dr. James H. Billington, which sets forth in detail the need for this legislation.

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

THE LIBRARIAN OF CONGRESS,
Washington, DC, May 24, 1991.

Hon. CLAIBORNE PELL,
Chairman, Joint Committee on the Library, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing draft legislation that will provide a modern authorization and fiscal structure for the various Library of Congress products and services that have long been supported by fee service charges. This legislation is responsive to a draft General Accounting Office report, which recommends that the Library of Congress seek legislation to authorize revolving fund accounts already in existence. In addition, we are requesting authority to add services that will enable the Library of Congress to supply business and industry and the educational and information communities some of the specialized information they need in order to maintain this nation's educational, competitive, and productive status in a world highly dependent upon information.

This legislation does not introduce any new services that will compromise or encroach on services that have traditionally been delivered without fee. The Library of Congress is determined to sustain and improve these existing free core services, including organizing, cataloging, and preserving its collections, and providing reference services and domestic interlibrary loan.

The Library has been engaged in fee services as far back as 1870, when the Copyright Office became part of the Library. In 1902, 2 U.S.C. 150 was enacted, authorizing the Library to sell catalog cards and other publications for cost plus 10 percent. The Library of Congress Gift and Trust Fund Board Act of 1925 authorized the acceptance of gifts, bequests or devices of property for the benefit of the Library, its collections and services. Under this authority, the Library has accepted gifts which established service fee revolving funds, to which income generated from sales of items produced through these funds could be returned. The most notable such gift in 1938 was used to establish the Photoduplication Service for purposes of providing for a fee copies of materials from the Library's collections for members of the public.

The Library now charges fees under three separate authorities:

(1) *2 U.S.C. 150*, approved in 1902, which authorizes the sale of "copies of the card indexes and other publications"; (2) *2 U.S.C. 160*, approved in 1925, Disbursement of gifts to the Library, which has been used since 1938 as a revolving fund authority; and (3) *31 U.S.C. 1535*, approved in 1932, The Economy Act, which is a general authorization allowing Federal government agencies to do work for each other when it is most economical to do so.

The Library of Congress is the largest knowledge resource in the world, containing nearly 100 million items in multiple formats. Modern technology has led to ways in which the Library's collections can be more fully shared by the American people. But because of limitations in the Library's statutory authority, the Library has been unable to share its collections and its expertise as widely as is desirable. On many occasions we have had to turn down requests from the private sector for specialized information services because we could not use the receipts to reimburse the appropriated funds used to support the work.

With the exception of copyright fees covered by Title 17 of the U.S. Code, all current Library products and services for which a fee is charged would be covered by the new legislation we seek. These current products and services include: catalog cards, machine readable catalog records, and technical publications; photoduplicates of the collections, including motion picture films, video tapes, sound recordings and facsimile reproductions; publications that are produced by Library gift funds; special research and bibliographic services for other Federal agencies, and support services for the Federal Library and Information Center Committee; photocopies of translations into English from the files of the National Translation Center; and a variety of other products from the sales shop including folk art, pictures, posters, greeting cards, and other Library-related items for visitors to purchase.

This legislation will allow the Library of Congress to improve its financial management of these activities and to provide for fee services and products by such means as: providing expedited document delivery services including copying services, and special express delivery services; offering specialized search and bibliographic services from the Library's unique databases for science, business, and industry; allowing public access to commercial and other fee service on-line computer files in the Library of Congress reading rooms; and providing training in specialized fields such as preservation and library service, including reference and research services. Products of the Congressional Research Service are specifically exempted without prior Congressional approval.

We have included in the draft legislation a requirement for a public notice and comment period for any proposed new fee service. This will give Library users an opportunity to comment on the merits of the service. This legislative proposal has been reviewed and revised after discussions with representatives of national library associations, the information industry, and Congressional staff from the authorizing and appropriations committees of both the House and the Senate. We have recieved very constructive comments from all parties, and they are reflected in the legislation.

The enclosed draft represents, I believe, the balanced interests of all concerned. It reaffirms the Library's long-standing commitment to provide core services without fees, enables the Library to exploit its resources more fully for those information-dependent groups whose work benefits the nation, and prepares the Library of Congress for a third century of continued information services to the Congress and the nation.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. GORTON, and Mr. DECONCINI):

S. 1417. A bill to amend chapter 111 of title 10, United States Code, to authorize the Department of Defense to award grants to institutions and organizations that promote training of United States scientists, engineers, and managers in Japanese language and culture; to the Committee on Armed Services.

UNITED STATES-JAPAN INDUSTRY AND TECHNOLOGY MANAGEMENT TRAINING ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce the United States-Japan Industry and Technology Management Training Act of 1991. I am pleased that Senators MCCAIN, GORTON, and DECONCINI are joining me in introducing this bill.

Mr. President, the strength of the U.S. defense industrial base directly depends on the strength of the Nation's overall industrial base. Unfortunately, the U.S. industrial base is losing ground in the international economic

competition. Various private groups, most notably the Council on Competitiveness in its recent report "Gaining New Ground," have pointed out the extent to which the United States is losing leadership in many areas of critical technology.

While the United States is losing ground, Japan is gaining ground almost across the board. Japan has demonstrated outstanding abilities in building and sustaining a strong industrial base by creatively using science and technology to support its industrial base activities. Indeed, the 1991 Department of Defense Critical Technologies Plan states that Japan is capable of making important contributions in 11 of the 21 technologies most critical to national defense, and ahead of the United States in 5 of those 11.

Mr. President, we need to be in a position to benefit from Japanese scientific and technological advances in the same way that Japan has benefited from United States advances over the years. It is clear to me that the United States stands to benefit by cooperating with Japan in the development of precompetitive technologies and transferring to the United States technologies developed in Japan, particularly in those areas identified by the Department of Defense as critical.

A major barrier to understanding Japanese management and business practices, to United States-Japan cooperation in the development of technologies important to defense, and to the transfer of technology from Japan to the United States, is the lack of United States scientists, engineers, and managers with training in the Japanese language. If we are to benefit from Japanese advances, we need to address this shortfall.

In each of the last 2 years I have visited Japan under the auspices of the Armed Services Committee and seen for myself the extent to which Japan has developed critical defense technologies that are ahead of the United States. On each trip, I was told time and again of the difficulties of accessing Japanese technology because of the lack of technically trained United States citizens who are proficient in Japanese. In an attempt to address this, I worked to include a provision in the fiscal year 1991 Defense Authorization Act which would provide funding for programs at colleges, universities, and nonprofit institutions that would train United States scientists, engineers, and managers in Japanese language and culture. The Department of Defense directed the Air Force Office of Scientific Research to manage the program, and that office is currently in the process of accepting proposals.

While I am pleased that the Department of Defense is implementing this program, I am disappointed that the Department is treating this as a one-time authorization and is not planning to continue the program. Japan is a technological superpower and should be treated as such. We need to build a sustained program of Japanese language training that will allow sustained United States access to Japanese science and technology. I am introducing this act today to lay the groundwork for such an effort.

This act requires the Secretary of Defense, acting through the Undersecretary of Defense for Acquisition, to establish a program of competitively awarded grants to United States universities, colleges, and nonprofit institutions for the purpose of promoting the study of Japanese language and culture.

In addition to criteria for selection decided upon by the Department of Defense, special consideration shall be given to universities, colleges, and nonprofit institutions that can support participation by scientists, engineers, and managers from Department of Defense and Department of Energy defense laboratories; develop plans to place United States scientists, engineers, and managers in Japanese Government and industry laboratories to promote the transfer of technology to the United States; and agree to share program costs on an equitable basis.

Mr. President, this is a concise, straightforward measure that will, if enacted, allow us to better access and transfer Japanese technology to the United States. I urge my colleagues to support it.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States–Japan Industry and Technology Management Training Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

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

(1) Japan has built a research, development, and manufacturing base that is unparalleled in comparison to the research, development, and manufacturing bases of countries other than the United States.

(2) According to the defense critical technologies plan submitted to Congress by the Secretary of Defense in 1991, Japanese industries have significant capabilities in research, development, and application of eleven of the twenty-one critical defense technologies identified in the plan.

(3) According to the plan, the capabilities of Japanese industries with respect to five of those eleven technologies are at least equal to the capabilities of United States industries with respect to such technologies.

(4) It is vital to the national security and economic prosperity of the United States that United States institutions of higher education, Federal laboratories, and United States industries use the capabilities of Japanese industries as effectively as Japanese industries have used the capabilities of such United States entities during the last four decades.

(5) In order for United States institutions of higher education, Federal laboratories, and United States industries to be able to use such Japanese capabilities effectively, those United States institutions must be able to interact with Japanese industries.

(6) Among the most significant barriers to effective interaction of United States institutions of higher education, Federal laboratories, and United States industries with Japanese industries (including Japanese research and manufacturing institutions) are the general inability of United States scientists, engineers, and managers to communicate in the Japanese language and the limited knowledge that such personnel generally have of Japanese culture.

(b) PURPOSE.—The purpose of this Act is to encourage the training of United States scientists, engineers, and managers in Japanese culture, language, and business and management practices in order (1) to facilitate cooperation of United States research, development, and manufacturing institutions with such Japan industries (including Japanese research and manufacturing institutions), and (2) to facilitate transfers of knowledge from such Japanese institutions regarding seminal advancements in science, engineering, and industry management to such United States institutions.

SEC. 3. UNITED STATES-JAPAN MANAGEMENT TRAINING PROGRAMS.

(a) ESTABLISHMENT.—Chapter 111 of title 10, United States Code, is amended—

(1) by redesignating section 2196 as section 2197; and

(2) by inserting after section 2195 the following new section 2196:

"§2196. Management training program in Japanese language and culture

"(a) The Secretary of defense, acting through the Under Secretary of Defense for Acquisition, shall establish a program to award grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations that conduct programs for scientists, engineers, and managers to learn Japanese language and culture.

"(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an institution or organization referred to in subsection (a), including the following:

"(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activites that is beneficial to the development and application of defense critical technologies by such laboratories.

"(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

"(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

"(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

"(3) Whether an appropriate share of the costs of such activites will be paid out of funds derived from non-Federal Government sources.

"(c) For the purposes of this section the term 'defense critical technologies' means

any technology identified as critical in an annual defense critical technology plan submitted to the Congress under section 2508 of this title.".

(b) CONFORMING AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2196 and inserting in lieu thereof the following new matter:

"2196. Management training program in Japanese language and culture.
"2197. Definition.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of Defense to carry out section 2196 of title 10, United States Code (as added by section 3), $10,000,000 for each of fiscal years 1992 and 1993.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1418. A bill to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building," and for other purposes; to the Committee on Environment and Public Works.

SILVIO O. CONTE FEDERAL BUILDING

Mr. KERRY. Mr. President, I rise today to honor one of the most dedicated public servants to ever represent the Commonwealth of Massachusetts and one of the greatest individuals who has served in Congress, Silvio Conte.

Sil Conte entered politics because he wanted to make a difference. Well, Sil made a big difference for the people of the First Congressional District and the United States whom he served for 32 special years. He was a compassionate defender of the common man who never lost sight of the reason he was elected. Too often, Congress gets wrapped up in the atmosphere of Washington, assuming what happens inside the beltway is of the utmost importance. But Sil Conte, with his wit and humor, always brought the issues back into perspective.

Silvio Conte spent his life helping the poor and working class, protecting the environment, and trying to give each and every American a chance for the American dream. Silvio saw what was wrong and tried to correct it, saw what was right and tried to preserve it; regardless of the politics of the situtation. His enormous legacy stands as a monument to good government and professional integrity.

Today, Senator KENNEDY and I are introducing a bill to rename the Pittsfield Federal Office Building the Silvio O. Conte Federal Building. We hope this will serve as a small token of our respect and affection for Sil and a tribute to his tireless efforts to help his fellow citizens. I ask that my colleagues join with us to thank Silvio Conte for his service and for sharing part of his special life with us.

Mr. KENNEDY. Mr. President, I rise in support of this bill to name the Federal Building in Pittsfield, MA, after Silvio Conte. The people of Pittsfield have requested this tribute, and it's not hard to see why. Sil was a most beloved and revered Representative in his district, in Massachusetts, and in the Congress. His ability to help his constituents through the appropriations process was the stuff of legend. It is said that all Sil Conte had to do was walk into the House Appropriations Committee room, raise his little finger, and western Massachusetts had a new Federal project. If he had got us any more, we'd have had to call the state Conte-chusetts.

His wit and compassion were equally legendary. Perhaps no Member of Congress wore his heart more clearly on his sleeve than Sil, and what a warm and beautiful heart it was, always reaching out to those in need. Day in and day out, year in and year out, for over three decades of brilliant public service in the House of Representatives, Sil Conte was always there when his constituents and his country needed him, advancing America's real priorities, standing firm against unfair budget cuts, and other proposals that would damage the goals we share. He had a deep and abiding sense of compassion for the elderly, the sick, the poor, and all the others who need our help the most. And he knew, perhaps better than anyone in Congress, how to get the job done with a touch of humor. You could always count on Sil to make his point with a prop or a poem that left us laughing.

It is most appropriate that this Federal building, where Sil maintained his district office since the day it opened, and which owes its very existence to Sil's efforts, should be named after him. I urge my colleagues to support this legislation which pays tribute to one of the finest public servants Massachusetts and the Nation have ever known, Silvio O. Conte.

By Mr. PRESSLER (for himself, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health-care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. SPECTER):

S.J. Res. 170. A joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day," and authorizing the display of the National League of Familes POW/MIA flag on flagstaffs at certain Federal facilities; to the Committee on the Judiciary.

POW/MIA RECOGNITION DAY

Mr. DOLE. Mr. President, in 1969, when I first expressed concern about resolving the fates of the missing Americans who served this Nation in times of conflict, I spoke to only 20 POW/MIA family members.

Now, 22 years years later, the issue has become a national priority. Thousands of concerned Americans have joined the National League of Families in demanding answers. The POW/MIA flag now stands in the rotunda of the Capitol as a reminder to all. And it will not come down until we have the fullest account possible of our missing Americans.

President Bush has a deep interest in this issue. The President has pledged that "We will do everything that a Government can do to recover the missing * * * If more can be done, then it will be."

Today, I am pleased to introduce legislation with Senator SPECTER, designating September 20, 1991, as "National POW/MIA Recognition Day."

We designate this day to pay tribute to our heroic men and women of our Nation's armed services who have suffered for their courageous service to America. We designate this day to remember the lonely hours of silent pain and sacrifice of American Families that have lost their loved ones, and now wish only to know their fate. We designate this day to renew our promise to these families that we will continue to demand that other nations cooperate with our goal to have the fullest accounting possible for our missing heroes.

Some may forget, some may wish to, we shall not.

By Mr. KASTEN:

S.J. Res. 171. Joint resolution to designate the month of August 1991, as "Wisconsin Cheese Month"; to the Committee on the Judiciary.

WISCONSIN CHEESE MONTH

• Mr. KASTEN. Mr. President, I rise today to introduce legislation that recognizes the month of August 1991 as Wisconsin Cheese Month.

Mr. President, Wisconsin is the dairy capital of the United States. Over 75 percent of the milk produced in Wisconsin is made into cheese. The majority of cheese processed in Wisconsin is exported. Therefore, Wisconsin is a viable source of feeding Americans and people around the world.

Cheese and other Wisconsin dairy products are vital to many low-income programs, such as Women, Infants, and Children [WIC], school lunch programs, Temporary Emergency Food Assistance Program, and other welfare programs. It is important that the hard working Wisconsin dairy farmers, producers, and processors be recognized for their contributions to this Nation.

This year will mark the 100th anniversary of the Wisconsin Cheese Makers Association. The Wisconsin cheese makers association has led the way in formulating dairy policy in Wisconsin and across this Nation.

Mr. President, August 1991 deserves the attention of this Nation as "Wisconsin Cheese Month." I hope my col-

leagues will join me in supporting this important resolution.●

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GORE, Mr. GORTON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 172. A joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month"; to the Committee on the Judiciary.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

● Mr. INOUYE. Mr. President, I am pleased today to introduce, on behalf of myself and 41 colleagues, a Senate joint resolution designating the month of November 1991, and the month of November in each year thereafter, as "American Indian Month."

Earlier this session I wrote to each of you, inviting you to join me in a resolution that would designate the month of November as American Indian Month and I thank all of you who have done so.

As you know, by action of the Congress, all of next year will be the Christopher Columbus quincentenary jubilee, and many events will commemorate developments in the Americas since the arrival of Europeans in this hemisphere. It seems to me that it would be especially fitting before that 500th anniversary arrives for the Congress to designate 1 month on a permanent basis to honor the first inhabitants of this land and to celebrate their contributions to the life of this Nation.

Mr. President, my goal this year is not to obtain the simple majority of sponsors needed to adopt the resolution, but to obtain the sponsorship of all Members of the Senate. I ask even those of you who shun resolutions because they are so numerous to make an exception for what surely is an exceptional case.

I ask you to join me in this historic gesture.●

ADDITIONAL COSPONSORS

S. 83

At the request of Mr. SYMMS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 177

At the request of Mr. INOUYE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 177, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 284

At the request of Mr. BRADLEY, the names of the Senator from Nevada [Mr. REID] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 474

At the request of Mr. DECONCINI, the names of the Senator from Missouri [Mr. BOND] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 474, a bill to prohibit sports gambling under State law.

S. 542

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 747

At the request of Mr. SYMMS, his name was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 757

At the request of Mr. LEAHY, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 757, a bill to authorize the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 878

At the request of Mr. DODD, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 884

At the request of Mr. PACKWOOD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 930

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 930, a bill to amend the Higher Education Act of 1965 to provide financial assistance for middle income students.

S. 1023

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1023, a bill to authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

S. 1127

At the request of Mr. BRYAN, the names of the Senator from Nevada [Mr. REID], the Senator from Mississippi [Mr. LOTT], the Senator from Arizona [Mr. MCCAIN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1127, a bill to direct the heads of the departments and agencies of Federal Government to make available to the public information relating to members of the Armed Forces of the United States who are officially considered to be prisoners of war, missing in action (body not returned) by reason of certain wars of the United States.

S. 1197

At the request of Mr. KENNEDY, the name of the Senator from Arkansas

[Mr. BUMPERS] was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act concerning family planning and to provide for the availability of information and counseling regarding pregnancies, and for other purposes.

S. 1305

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1986 to encourage consumer participation in energy efficiency, conservation and cost-effective demand-side management by excluding from gross income payments made by utilities to customers for purchasing qualified energy conservation appliances and for taking energy conservation measures, and for other purposes.

S. 1346

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1346, a bill to amend the Internal Revenue Code of 1986 to provide for a 50 percent-of-occupancy rule with respect to the valuation of seats on corporate aircraft on a legitimate business flight when those seats would have otherwise gone unoccupied.

S. 1351

At the request of Mr. DOMENICI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1351, a bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.

S. 1352

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1352, a bill to place restrictions on United States assistance for El Salvador.

S. 1364

At the request of Mr. SYMMS, his name was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1367

At the request of Mr. MITCHELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1367, a bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met.

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week".

SENATE JOINT RESOLUTION 147

At the request of Mr. LEAHY, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 147, a joint resolution designating October 16, 1991, and October 16, 1992, as "World Food Day".

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week".

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. GLENN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Idaho [Mr. SYMMS], the Senator from Mississippi [Mr. LOTT], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

AMENDMENT NO. 383

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of amendment No. 383 intended to be proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

SENATE RESOLUTION 147—TO EXPRESS SENATE OPPOSITION TO THE USE OF FORCE TO RESOLVE POLITICAL DIFFERENCES IN YUGOSLAVIA

Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE) submitted the following resolution; which was considered and agreed to.

S. RES. 147

Whereas since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991 the democratic republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yugoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas in its June 26 statement on Yugoslavia, the U.S. Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia"; Now, therefore, be it

Resolved, That—

(a) The Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) The Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement.

(c) The Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

Mr. DOLE. Mr. President, I am submitting this resolution in response to

the crisis in Yugoslavia, together with the chairman and ranking member of the Foreign Relations Committee, the President pro tempore, Senator PRESSLER and Senator NICKLES.

This resolution expresses Senate opposition to the use of force to resolve political differences within Yugoslavia. As I said here earlier today—I think that this is a very important message to send, especially now that the central goverment has mobilized the Yugoslav Army and ordered the use of force in response to the Croatian and Slovenian Declarations of Independence. The crisis is escalating and we need to stand firm against the use of violence and brute force.

This resolution will support the administration's efforts to promote dialog—with the objective of a political settlement involving greater sovereignty and independence for the Republics of Yugoslavia.

Tragically, today there are already more than 100 people dead—in Slovenia alone—as a result of fighting between Yugoslav Army troops and Slovenian militia. There are reports of clashes in Croatia, too, among army units and Croatian police which have resulted in casualties.

Mr. President, now is the time for the U.S. Senate to say clearly and with one voice that it rejects violence and supports democracy and peaceful dialog. I believe that this resolution does just than and I urge its adoption.

Mr. PELL. Mr. President, I am pleased to join with the distinguished minority leader Mr. DOLE to submit a resolution regarding the crisis in Yugoslavia.

Today's reports from Yugoslavia are extremely distressing. In response to the June 25 declarations of independence by Croatia and Slovenia, the central government ordered the Yugoslav Army to step up activity along the Slovenian and Croatian borders and to seize border posts. Apparently, violence has broken out between the Yogoslav Army and republic militias, resulting in the deaths of both civilians and soliders. Press reports indicate that the violence is escalating, and according to Slovenia's Defense Minister Janez Jansa, more than 100 people have been killed or injured in the fighting.

I would note that disturbing reports are also coming out of the province of Kosova. Apparently, the President of the Parliamentary Party of Kosova, Venton Surroi, has been arrested, tried without representation, and sentenced to 60 days in prison. I sincerely hope that this arrest is not a signal that the Government of Serbia is capitalizing on the current uncertainty to step up its repression of the Albanian population in Kosova.

The resolution that we are introducing today condemns the use of force to resolve differences within Yugoslavia and calls for an end to the hostilities. It also urges the central government to agree to calls for negotiations leading to a peaceful settlement of the issues affecting all of Yugoslavia. These calls for negotiations are coming from within Yugoslavia as well as from foreign capitals. Finally, the resolution urges the Republic of Serbia to allow the normal constitutional rotation of the Federal Presidency to occur.

The steps we are urging must be taken if further violence is to be avoided and if a degree of normalcy is to return to Yugoslavia. It is critical that the Senate declare its position on the present crisis firmly and unequivocally, and therefore I strongly urge that my colleagues support this measure.

SENATE RESOLUTION 148—RELATIVE TO SELF-DETERMINATION FOR THE PEOPLE OF THE REPUBLIC OF MOLDAVIA

Mr. PRESSLER (for himself and Mr. HELMS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 148

Whereas the Romanian principality of Moldavia emerged as an independent state in the 14th century;

Whereas Moldavia was invaded in 1806 by the Russian army and annexed by the Russian Empire in 1812 as a result of the Russo-Turkish Treaty of Bucharest;

Whereas on November 15, 1917, the Soviety Government proclaimed the right of the peoples of the Russian Empire to self-determination and the establishment of separate states;

Whereas on December 2, 1917, the democratically-elected Moldavian constituent assembly, the *Sfatul Tsarii*, proclaimed Moldavia an independent republic;

Whereas on April 9, 1918, the Constituent Assembly voted to unite Moldavia with the Kingdom of Romania;

Whereas the United States, France, Italy, Great Britain, Japan and the other allied states specifically sanctioned and recognized the reunion of Moldavia with Romania in the Peace Treaty of Paris of October 28, 1920;

Whereas the Soviet Union's armed forces invaded the Kingdom of Romania on June 28, 1940 and occupied eastern Moldavia and northern Bucovina, and Hertsa in contravention of the Charter of the League of Nations; the Treaty of Paris of 1920; the General Treaty for the Renunciation of War of 1928; the Romanian-U.S.S.R. Mutual Assistance Pact of 1936; the Conventions for the Definition of Aggression of 1933; and generally recognized principles of international law;

Whereas the annexation of Moldavia, northern Bucovina, and Hertsa was prospectively agreed to in certain secret protocols to a treaty of non-aggression concluded between the Government of the Soviet Union and the German Reich on August 23, 1939;

Whereas from 1940 to 1953 hundreds of thousands of Romanians from Moldavia and Bucovina were deported by the U.S.S.R. to Central Asia and Siberia;

Whereas the United States Government has repeatedly stated its refusal to recognize forcible seizure of territory pursuant to the terms of the so-called Stalin-Hitler Pact, including the 1940 Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Governments of the United Kingdom, the Soviet Union and the United States are parties to the Atlantic Charter of August 14, 1941, in which the signatories declared their "desire to see no territorial changes that do not accord with the freely expressed will of the peoples concerned" and affirmed their wish "to see sovereign rights and self-government restored to those who have been forcibly deprived of them" during the course of the Second World War;

Whereas on August 31, 1989, the Supreme Council of Moldavia declared Romanian to be the official language of the Republic and reestablished the Latin alphabet forbidden by the Soviet Government during the occupation of Moldavia as the alphabet of written Romanian;

Whereas in March, 1990, the Romanian people of Moldavia were able to vote in free and fair elections for deputies to the Supreme Council of Moldavia;

Whereas on April 27, 1990, the Supreme Council of Moldavia restored the flag of Romania as the official flag of the republic;

Whereas on June 23, 1990, the Supreme Council of Moldavia declared the Republic of Moldavia a sovereign state;

Whereas on December 16, 1990, more than 800,000 Romanians gathered at the Second Grand National Assembly in the Moldavian capital of Chisinau to declare the national independence of Romanians in occupied territories;

Whereas the people of Moldavia refused to participate in the Soviet referendum of March 3, 1991 despite Soviet governmental efforts to threaten and intimidate the Moldavian people into accepting a new union treaty;

Whereas the signatory states of the Helsinki Final Act have accepted the principle of the equal rights of people and their right to self-determination;

Whereas pursuant to article 8 of the Helsinki Final Act "all people always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development": Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government should—

(1) Support the right of self-determination of the people of Soviet-occupied Moldavia and northern Bucovina and issue a statement to that effect;

(2) Support future efforts by the Government of Moldavia to negotiate peacefully, if they so wish, the reunification of Romania with Moldavia and Northern Bucovina as established in the Paris Peace Treaty of 1920, the prevailing norms of international law, and in conformity with Principle 1 of the Helsinki Final Act.

Mr. PRESSLER. Mr. President, I am pleased to sponsor a resolution today with Senator HELMS regarding a shameful anniversary. Tomorrow, the Romanian people of Bessarabia and northern Bucovina will commemorate the 51st anniversary of their loss of freedom. On June 28, 1940 Red Army tanks rolled onto Romanian land bringing forth destruction and captivity in the Soviet Union.

Mr. President, the question of Moldavia raises both human rights and legal concerns. The Romanian principality of Moldavia emerged as an independent state in the 14th century.

On January 24, 1918, the democratically-elected Moldavian constituent assembly proclaimed Moldavia's independence. On April 9, 1918, Moldavia chose freely to unite with the Kingdom of Romania.

Bucovina, part of Moldavia, was invaded by Turkey in the 18th century, and remained part of the Austro-Hungarian Empire until 1918. On June 28, 1918, the General Congress of Bucovina proclaimed union with Romania.

The reunion of Moldavia and northern Bucovina with Romania was recognized by the United States and other allied States. Unfortunately, this reunion was short-lived. Stalin set his eyes on the Romanian land and negotiated a secret pact with Nazi Germany in 1939 to lay an illegal claim to Moldavia.

According to article 1 of the Secret Supplementary Protocol, Finland, Estonia, Latvia, and Lithuania were granted to the Soviet Union. Article 3 of the Secret Supplementary Protocol reads as follows: "As regards southeastern Europe, Soviet interest in Bessarabia is emphasized. The German side declares its complete lack of interest in these areas." The map which accompanied the Nazi-Soviet Pact placed the Romanian town of Hertsa in the region to be occupied by the Soviet Union.

The annexation went almost unnoticed; Europe was convulsed in war against fascism. Communism's war against democracy went almost unnoticed. As a result Eastern Europe was lost to the Soviet empire. Only Finland was to regain a precarious freedom.

The military occupation of Moldavia was a direct violation of international agreements, including the League of Nations Pact. In 1929, when the Soviet Union participated in the Briand-Kellogg pact, the Soviet Union pledged to "maintain the existing peace." On July 3, 1933 Romania and the Soviet Union concluded an agreement concerning the definition of aggressor and of territory. In signing this agreement the Soviet Union recognized that Bessarabia belonged to Romania. In the name of territorial expansion these agreements were disregarded.

Mr. President, today the people of Moldavia are moving peacefully towards democracy. Meeting in Kishinev, the capital of Moldavia, last December, 800,000 Romanians of Bessarabia, Transnistria, and northern Bucovina stated their unequivocal opposition to association with the Soviet Union.

Mr. President, I ask unanimous consent that the Proclamation of the Great National Assembly of all Romanians, signed on December 16, 1990, be printed in the RECORD at the conclusion of my remarks.

Tomorrow in Kishinev, representatives from the West, including some from the United States, will attend a conference to discuss the Nazi-Soviet Pact and Moldavia's legal claim to self-determination. The conferees will discuss the illegality of the current Soviet occupation and current human rights abuses against the Modavian populace.

Tragic human rights abuses have been directed against the people of Moldavia since its occupation a half-century ago. These abuses have included mass deportations, Russification, and persecution of the Romanian Orthodox Church. Human rights violations today include beatings of Moldavian young men serving in the Soviet army. The democratically-elected government of Moldavia has chosen not to participate in plans for the new union treaty. As a result, threats, economic sanctions, and military maneuvers have been employed against Moldavians.

Mr. President, I am disturbed by reports of human rights abuses against these poeple. I urge human rights groups and the Department of State to monitor events in Moldavia more closely.

Mr. President, according to the Helsinki Final Act, to which the Soviet Union and the United States are signatory, "all peoples always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, and cultural development."

I am pleased to stand with the people of Moldavia on their move toward self-determination and freedom. I urge Senators to support the right of self-determination of the people of Soviet-occupied Moldavia and northern Bucovina and future efforts by the Government of Moldavia to negotiate peacefully, if they so wish, the reunification of all Romanian lands.

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

PROCLAMATION OF THE SECOND SESSION OF THE GREAT NATIONAL ASSEMBLY

The Second Session of the Great National Assembly of all Romanians of Bessarabia, Transnistria and Northern Bucovina, having convened at a crucial moment in our people's history, finds the following:

After the First Session of the Great National Assembly of August 27, 1989 which marked the beginning of the national liberation process of the Romanians of Bessarabia and Bucovina, the soviet imperialistic forces escalated their hostilities and pushed to its limits the state of oppression in which our people has languished during the past fifty years of foreign occupation.

In order to salvage its dominance, that last colonial empire on the globe is ready to shatter the future of the Romanians of the occupied territories, compelling them to sign a treaty of union, in order to give a semblance of legality to the actual occupation that took place on June 29, 1940.

The Romanian lands of Bessarabia and Northern Bucovina have always been integral parts of the Moldavian State, that emerged in the 14th century on the territories of the Getae and of the Dacians, who are the ancestors of the Romanians.

In 1775 the Hapsburg Empire wrenched from the Moldavian State its northern area, Bucovina, with the tacit agreement of the Russian Emperor.

After the war between Russia and Turkey which raged from 1806 to 1812, and after prolonged diplomatic encounters, the Russian Empire managed to dismantle the Moldavian State through the Peace Treaty of Bucharest (1812), seizing the area between the rivers Prut and Nistru to which they gave the artificial name of Bessarabia.

An outcome of the collapse of the Russian and of the Austro-Hungarian Empires after World War I was the fact that Bessarabia and Bucovina were able to use their natural and legitimate right to self-determination. On December 2, 1917 the Democratic Republic of Moldavia was created. After the Ukraine declared herself an independent republic, the Parliament of the Republic of Moldavia—called the Land Council—declared on January 24, 1918 the independence of the Democratic Republic of Moldavia. On March 27 in the same year, the Land Council voted that Bessarabia be united with the motherland, Romania—thus implementing the will of the people and making use of its historical and national rights. The National Assembly of Bucovina also voted on November 28, 1918 the unconditional and permanent union of Bucovina within her ancient boundaries which extend between the rivers Ceremus, Colacin and Nistru, to the Romanian motherland.

The implementation of the national and administrative unity of the Romanian people on December 1, 1918 fulfilled its perennial dream. As a result of the act of union of 1918, the Romanians east of the river Prut and those of Bucovina preserved their national existence and became an integral part of the life of our nation.

The Romanians of Transnistria, who had been the victims of the oppression exerted by the tsarist regime as early as the end of the 18th century, were the first to suffer during the twenties and the forties the oppression, the deportations, the state-organized starvation, the intensive process of denationalization carried on by the soviet dictatorship. Tens of thousands of rural workers and of educated people, unable to endure the horrors of bolshevism any longer, escaped to the right bank of the Nistru, to their Romanian brothers.

The imperialist forces, inimical to our nation, were not ready to accept the loss of their former colonies and carried on their policy of expansion and annexation. After the Stalin-Hitler pact of August 23, 1939, after a series of ultimatums forwarded by the Soviet government to Romania on June 26 and 28, 1940, based on specious argumentation and on the support of fascist states, the U.S.S.R. occupied on June 28, 1940 the Romanian lands of Bessarabia and Northern Bucovina, under the threat of military action against the population.

Thus the Soviet Union perpetrated an act of aggression against Romania, flagrantly infringing her independence and her territorial integrity, and breaking the Briand-Kellog Pact of renouncing war it had signed on August 28, 1928 at Paris, and also breaking the agreement between the Soviet Union, Estonia, Latvia, Poland, and Romania it had signed on February 9, 1929.

According to international law, the occupation of foreign territories through acts of aggression must be void *ab initio* (from the very beginning).

Then followed the dismantling of the occupied territories through the arbitrary and

dictatorial decisions of the Supreme Soviet of the U.S.S.R. of August 2, 1940, and of the Presidium of the Supreme Soviet of November 4 of the same year, according to which the South of Bessarabia, the County of Hotin, Northern Bucovina, and the greater part of Transnistria were ripped apart and engulfed into the Ukraine. However, dismembering the Soviet Socialist Republic of Moldavia in the manner in 1940 does not change the status of occupied territories that has been and continues to be that of Bessarabia and Northern Bucovina in the light of international law.

Following that 1940 act of aggression and occupation, approximately one million Romanians from Bessarabia and Bucovina fled, crossing the river Prut into Romania. In the summer of that year, the regime of the occupiers destroyed the best among our citizens who could not escape.

The Christian Orthodox Church of Bessarabia and Northern Bucovina, who had over two million members, was wrenched from its proper place against the will of its members, of its clergy, and of its Holy Synod, and subjected to a foreign church authority located over one thousand kilometers away.

The reprisals of 1944–45, the state-organized starvation of 1946–47, the mass deportations of 1949–53 killed off more hundreds of thousands of people. In the name of the "struggle against nationalism and antisoviet feelings", the reprisals never stopped between 1950 and 1990, and are still continuing in some areas of the grievously martyred and misappropriated land of Moldavia.

The massive dislocation and replacement of the population, the suppression and destruction of the national culture, and the policy of imperialistic dictatorship brought upon Moldavia the danger of another territorial fragmentation, jeopardizing our very national existence. In this manner the soviet state is guilty of one more crime in international law, namely of genocide.

For 50 years the U.S.S.R. has pursued a policy of physical and spiritual annihilation of our people, using to that end the structures set up after the act of occupation, and first and foremost through the communist party and the soviet secret police, the KGB, implanted here on our national territory. The Russian Orthodox Church, as a docile handmaid of the communist state, also pursued a policy of spiritual genocide against the Romanian population under soviet occupation.

The occupying power recruited for those structures local residents and made them betray their own people. Those structures of the occupying power are still unrestrained and active on our territory, and are working against our national liberation.

At the basis of the physical and spiritual destruction of our people lies the communist ideology, which is alien to the nature, the interests, and the aspirations of the Romanians. In 1940 the communist system ripped apart our nation; today it carries on the same policy but wears the mask of pluralism and of the agreement between the torturer and his victim; it brings about new acts of dismemberment and tries to force us again in the deadly embrace of the totalitarian soviet state. That system endeavors to keep us victims of the absurd bolshevist ideology, and continues issuing a series of presidential decrees proclaiming the inviolability of the monuments and memorials of the leader of the 1917 coup d'état.

A direct outcome of the 1940 act of aggression is the presence of our national territory of the occupying army, of the communist party of the Soviet Union, and of its secret police, the KGB, active even today to ensure the soviet imperialistic domination. The direct participation of these forces in the recent acts of dismemberment of the Moldavian land is one more proof of their true function. The soviet army has ground down and continues to grind down the bodies and souls of our young people, sending them to their death to promote foreign interests.

The unlawful and inhuman face of the U.S.S.R. is also revealed by the way that state openly flouts international law and all human values. Overcome by the process of its dissolution, that empire attempts to stifle the national liberation movements, and to impede the inevitable process of de-colonization that has begun in the occupied territories, by openly threatening the states that have declared their independence, by bringing about their dismemberment, by ignoring the right of nations to self-determination, by applying economic embargoes, and by using direct military intervention. It is along those lines that the soviet empire attempts to make us sign a treaty of union, promising in exchange to spare our land that it occupies from the further fragmentation it contemplates for us, using the time-honored principle of "divide et impera" among the various ethnic groups.

The empire's ruling régime is using this new treaty of union to try to maintain the captive nations as mere component parts of a state that is prevalently monolithic and totalitarian.

Faced with the immediate danger of the total annihilation of the very national existence of the Romanians in the occupied territories, reasserting our people's perennial desire for freedom and independence, in the spirit of the United Nations Organization's Declaration regarding the granting of independence to colonial countries and peoples, and in accordance with the universally recognized right of the nations to self-determination,

The Great National Assembly proclaims:

The national independence of the Romanians in the occupied territories and the granting to the entire Romanian nation the right to defend and guarantee that independence using all available means;

Signing any treaty of union with an empire would confer a semblance of legality to the act of occupation of June 28, 1940 and to the situation that resulted from it. There is absolutely no legal evidence that could bear witness to our desire to become part of the U.S.S.R. Having been engulfed into the U.S.S.R. against our free will, we the people of the Romanian occupied territories have no obligation to the soviet state;

The train of events that evolve in the Romanian occupied territories is a national liberation movement directed against colonialism and against imperialism;

The future of the Romanian occupied territories should be decided only by the Romanian nation in its entirety, that nation being the unique entity to which international law applies, and that nation being the bearer of the unalterable and inalienable right to decide its own fate without external intervention;

The Moldavian Republic's participation, either through a state organ, or through a juridical body delegated by a state organ, in the drawing up or the concluding of a treaty of imperialistic union, will constitute an act of betrayal of our nation's interests and aspirations to unity and independence; should such an act of betrayal be perpetrated, the representatives' subsequent participation in the supreme organ of state power of the Moldavian Republic would be tantamount to their complicity in the betrayal; any kind of pressure exerted upon state organs (or upon juridical bodies delegated by state organs) in order to oblige them to perpetrate an act of betrayal of their nation cannot justify an act of betrayal; any deviation from this principle will be described as an act of facilitating the foreign occupation and of submitting our nation to the rule of a foreign power. It is at the same time absolutely necessary to speed up the signing of bilateral treaties and agreements of cooperation in all fields with the states and nations who have proclaimed their sovereignty and their independence;

The participation of the Moldavian Republic's deputies in the Assembly of Deputies and Supreme Soviet of the U.S.S.R. has in the present circumstances no juridical validty and no moral justification;

The lack of preparedness or in the insufficient preparedness in the political, economic, and social fields, or in the field of education, may never be used as a pretext to postpone independence;

Faithful to its striving for national unity and independence, our nation once more reasserts its desire for peaceful coexistence and cooperation with the citizens of other national extraction, granting them all rights for the free development of their ethnic, cultural, and religious life, according to the norms of international law and to the country's laws;

The religious reintegration of the Romanian nation is imperative at this time;

Our nation's progress toward democracy and independence cannot be conceived without the guarantee of all universally acknowledged basic human rights;

No state and no party or political body has a right to instigate the citizens of Moldavia to perpetrate acts of treason against their nation. Hence the continued activity on Romanian territory of the structures of the occupying power such as the Communist Party of the Soviet Union and the KGB, the soviet secret police, a.s.o., is in disagreement with the best interests and the aspirations of our people. The Great National Assembly demands that those foreign structures be legally banned and their property be nationalized;

Maintaining a host of monuments and other insignia that tend to perpetrate at all costs the memory of the proponents of the bankrupt communist ideology who are guilty of physical and of cultural genocide, such as Marx, Engels, Lenin, and others like them, is incompatible with the further development of human society toward democracy and progress;

The right of nations to decide their own fate is unlimited and indivisible. Our people has claimed that right by embarking upon a national liberation movement that cannot be stopped either by unfavorable political circumstances or by the arbitrary dictates of the leaders of the U.S.S.R. The attempts of those leaders at using the army to suppress the national liberation movement is a crime against our nation and at the same time a crime against the soldiers who are the unwilling slaves of imperialistic policy. Our people will defend its independence by all means, including open resistance, in agreement with the acknowledged norms of international law that apply to the nations that are struggling for their national liberation against colonialism and imperialism;

The process of recovering national independence cannot take place while the soviet army is in our land. The Great National As-

sembly demands that the troops of the Ministry of Defense of the U.S.S.R. be withdrawn from Moldavian territory. Until that problem is solved, it is necessary to refrain from any acts that could hurt the dignity and the human rights of military personnel and their families. Such acts would be nothing but an instigation that could jeopardize the life of the military personnel and their families on the one hand, and our people's security on the other. At the same time, the Great National Assembly finds that the Government of Moldavia cannot commit itself to satisfying the material and social needs of the hosts of soviet military personnel, over whom it has no sort of control. The Great National assembly demands the termination of the military commissariats of the Ministry of Defence of the U.S.S.R. on the territory of the Moldavian Republic, and replacing them with the recruitment of our own young people in the National Guard and in the police force. Withdrawing the units of soviet troops from the territory of the Moldavian Republic and terminating the activity of the military commissariats of the Ministry of Defense of the U.S.S.R. would be the first and the most powerful proof that today's leaders of the U.S.S.R. observe the Declaration of Sovereignty adopted by the Supreme Soviet of the Moldavian Republic, according to which Moldavia is a nonmilitary zone.

In accordance with the United Nations Organization's Declaration regarding the granting of independence to colonial countries and peoples, the Great National Assembly of Chişinău proclaims the need to immediately and unconditionally put an end to soviet colonialism in all its forms and activities. The Soviet State, who also signed that declaration, must grant immediately to the peoples of its own colonies their independence.

To preserve peace and stability in this part of Europe, the Great National assembly of Chişinău launches an appeal:

To the United Nations Organization's Committee of Decolonization, urging it to fulfill its mission with respect to us too and find the best means to speed up the implementation of its Declaration; also urging it to take concrete steps to that end, based on which the United Nations General Assembly could adopt a resolution regarding soviet colonialism and especially regarding the problem of the occupation by force of the Romanian territories;

To the governments and states of the world, to the United Nations Organization, and to other international bodies, urging them to recognize the status of occupied territory for Bessarabia and Northern Bucovina, with all the juridical and political consequences foreseen in international law;

To all participants in all movements of national liberation within the Soviet Union, urging them to unite themselves immediately in an Alliance for the national liberation of the captive nations of the Soviet empire.

Only a complete, deliberate and scrupulous implementation of the national independence of our people will set up an environment in which it will be possible to eradicate the consequences of the foreign occupation, and do away with the injustice that was done to us on our land for centuries. It is only in this way that it will be possible to achieve a climate favorable to the peaceful and harmonious coexistence of all citizens, regardless of nationality and religious creed, in this land.

This difficult and heroic moment arrived through the inexorable, cast-iron process of history. It requires of us that we be fully aware of the magnitude of the difficulties it brought before us, and that, guided by the light of our own conscience, we proceed to solve them for the sake of our children, of our grandchildren, and of those to come after them.—Chişinău, the Great National Assembly Square, December 16, 1990, passed by the vote of the approximately 800,000 participants in the Great National Assembly.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

D'AMATO (AND DOLE) AMENDMENT NO. 387

Mr. D'AMATO (for himself and Mr. DOLE) proposed an amendment to the bill (S. 1241) to reduce and control violent crime, as follows:

At the appropriate place in the bill, insert the following:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of Title 18 of the United States Code is amended by adding the following:

"( )(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime.".

"(D) For purposes of this subsection, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this subsection the term "crime of violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is a federal jurisdiction over an offense under this section if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

SIMON AMENDMENT NO. 388

Mr. SIMON proposed an amendment to the bill S. 1241, supra, as follows:

On page 224, strike section 2401, title XXIV and insert the following:

TITLE —FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SIMON (AND BIDEN) AMENDMENT NO. 389

Mr. SIMON (for himself and Mr. BIDEN) proposed an amendment to the bill S. 1241, supra; as follows:

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

TITLE —BAIL POSTING REPORTING

SECTION 1. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRINIMAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

KENNEDY AMENDMENT NO. 390

Mr. SIMON (for Mr. KENNEDY) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $5,000,000", and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

LAUTENBERG AMENDMENT NO. 391

Mr. LAUTENBERG proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, add the following:

SEC. . MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to de-

termine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the moor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law environment officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspecion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) EXCEPTED PERSONS.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or deviced affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

(B) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

HATFIELD (AND OTHERS) AMENDMENT NO. 392

Mr. HATFIELD (for himself, Mr. PRESSLER and Mr. GRASSLEY) proposed an amendment to the bill S. 1241, supra, as follows:

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

TITLE XXVIII—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 2801. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

EXON (AND OTHERS) AMENDMENT NO. 393

Mr. EXON (for himself, Mr. HOLLINGS, Mr. KASTEN, and Mr. DANFORTH) proposed as amendment to the bill S. 1241, supra, as follows:

On page 186, immediately after line 24, insert the following new subtitle:

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

RUDMAN AMENDMENT NO. 394

Mr RUDMAN proposed an amendment to the bill, S. 1241, supra, as follows:

On page 8, after line 22, add the following:

SEC. 104. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754 (f)), is amended to delete the first word and insert the following:

"Except for grants awarded to state and local governments for the purpose of participating in multijurisdictional drug task forces, no".

SPECTER AMENDMENT NOS. 395 AND 396

Mr. SPECTER proposed two amendments to the bill, S. 1241, supra, as follows:

AMENDMENT NO. 395

At the appropriate place, add the following new Section:

SEC. . AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A U.S. ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the U.S. Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center; *Provided further*, That the site selected for the Philadelphia U.S. Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

AMENDMENT NO. 396

At the appropriate place, insert the following Section:

SEC. . COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

WIRTH AMENDMENT NO. 397

Mr. WIRTH proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii) is amended to read as follows:

"(ii) records of a law enforcement unit of an educational agency or instutition that are required by State law to be made available to the public;".

THURMOND AMENDMENT NO. 398

Mr. THURMOND proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 2. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may

request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

BIDEN AMENDMENT NO. 399

Mr. BIDEN proposed an amendment to the bill S. 1241, supra, as follows:

(1) On page 197, line 10, insert after "law enforcement, prosecution," the words "criminal defense,".

HEFLIN AMENDMENT NO. 400

Mr. HEFLIN proposed an amendment to the bill S. 1241, supra, as follows:

On page 199, between lines 20 and 21, insert the following:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

On page 199, line 21, strike "(A)" and insert "(B)".

On page 200, line 9, strike "(B)" and insert "(C)".

On page 200, strike lines 17 through 22.

On page 200, line 23, strike "(F)" and insert "(E)".

One page 201, line 2, strike "(E)" and insert "(D)".

On page 205, lines 11 and 12, strike "the clerk of the court" and insert "an entity designated by the Director of the Administrative Office of the United States Courts".

On page 205, line 12, strike "the clerk" and insert "the entity".

On page 205, line 14, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

On page 206, lines 10 and 11, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

BRADLEY AMENDMENT NO. 401

Mr. BRADLEY proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEYMOUR AMENDMENT NOS. 402 AND 403

Mr. SEYMOUR proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 402

At the end of the bill, add the following:

SEC. . REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

AMENDMENT NO. 403

At the appropriate place in the bill, insert the following:

SEC. . DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived:

"(2) kits intended for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances or intended for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

HATCH (AND GORTON) AMENDMENT NO. 404

Mr. SEYMOUR (for Mr. HATCH, for himself, and Mr. GORTON) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by strking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or ";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by strking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(C) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by strking the period at the end thereof and inserting"; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

SEYMOUR AMENDMENT NOS. 405 AND 406

Mr. SEYMOUR proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 405

At the appropriate place, insert the following:

TITLE —CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 02. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use American's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 03. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

AMENDMENT NO. 406

On page 154, between lines 4 and 5, insert the following:

SEC. 1246. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) striking "or" at the end of clause (ii);

(2) adding "or" at the end of clause (iii); and

(3) adding at the end thereof the following new clause:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

GRAMM AMENDMENT NOS. 407 AND 408

Mr. GRAMM proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 407

At the appropriate place in the bill, insert the following:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

AMENDMENT NO. 408

At the appropriate place, insert the following:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

MCCONNELL AMENDMENT NO. 409

Mr. MCCONNELL proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE .—CHILD ABUSER REGISTRATION

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 02. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

SEC. 03. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 04. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 05. REPORTING BY THE STATES.

(a) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository;

(B) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse; and

(C) direct access to the information repository shall only be available to State and Federal law enforcement officials.

SEC. 06. CONDITION ON GRANTS.

Compliance with section 05 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

SANFORD AMENDMENT NO. 410

Mr. SANFORD proposed an amendment to the bill S. 1241, supra, as follows:

Section 1902 is amended by adding at the end thereof a new paragraph:

"(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it."

THURMOND AMENDMENT NO. 411

Mr. BIDEN (for Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place insert the following:

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation

of federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

BRYAN (AND McCAIN) AMENDMENT NO. 412

Mr. BRYAN (for himself and Mr. McCAIN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 01. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 02. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State'

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives call initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 03. TELEMARKETING RULES.

(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT OR STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 04. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OR PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 05. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 06. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 07. SUBPOENA.

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commision Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 08. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 09. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquires made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquires respecting persons engaged in telemarketing or direct such inquires to the appropriate Federal or State agency.

SEC. 10. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1979 (12 U.S.C. 3409(a)(3)) if amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reasons of having been obtained in violation of law; or".

SEC. 11. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 12. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 04 and 05 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 89a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 89a-2(a)(36)).

SEC. 13. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 14. SUNSET.

The provisions of sections 03, 04, and 05 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

DECONCINI AMENDMENT NO. 413

Mr. DECONCINI proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert:

SEC. .

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

CHAFEE (AND OTHERS) AMENDMENT NO. 414

Mr. CHAFEE (for himself, Mr. PELL, Mr. GARN, and Mr. RIEGLE) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

TITLE —FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 02. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 03. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under cause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 04. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapse in the future.".

BINGAMAN (AND DOMENICI) AMENDMENT NOS. 415 AND 416

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed two amendments to the bill, S. 1241, supra, as follows:

AMENDMENT NO. 415

On page 172, between lines 23 and 24, insert the following:

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.".

On pages 172, 173, and 174 redesignate sections 233, 234, 235, and 236 as sections 234, 235, 236, and 237, respectively.

AMENDMENT NO. 416

On page 196, line 5, after "State" strike "and" and insert a comma.

On page 196, line 5, after "Federal" insert the following: ", and international border".

On page 196, between lines 14 and 15, insert the following:

"(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.".

On pages 196 and 197, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

SANFORD AMENDMENT NO. 417

Mr. SANFORD proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) section 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

BRYAN (AND METZENBAUM) AMENDMENT NO. 418

Mr. BRYAN (for himself and Mr. METZENBAUM) proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —INSURANCE CONSUMER PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act."

SEC. 02. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1033. Crimes by or affecting persons engaged in the business of insurance"

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzles, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance" has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance.".

SEC. 03. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515 (a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

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

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or con-

nected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

DURENBERGER (AND KASSEBAUM) AMENDMENT NO. 419

Mr. DURENBERGER (for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, add the following:

SEC. . CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagraph (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the office within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) receive by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

D'AMATO AMENDMENT NO. 420

Mr. THURMOND (for Mr. D'AMATO) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES.—Pursuant to section 994 of Title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate Section 1324(a) of Title 8, United States Code, shall be assigned not less than offense level 25 under Section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist:

(1) If the offense involved five or more aliens in a single scheme or otherwise; or

(2) If the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnapping or ransom demands, fraudulent documents, or extortion; or

(3) If the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13 except for an offense as described in 1324(a)(2)(A) of Title 8, United States Code.

LEAHY (AND OTHERS) AMENDMENT NO. 421

Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, or the use of a computer, computer services, system or network, information, data or program; and

(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examina-

tion, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(c)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 422

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) INITIAL REQUIREMENT.—On or before the date that is 2 years after the date of the enactment of this Act, the chief correctional officer of each State correctional system shall certify to the Attorney General that the State has in effect a mandatory functional literacy program in at least 1 major correctional facility.

(b) SUBSEQUENT REQUIREMENT.—On or before the date that is 5 years after the date of the enactment of this Act, the chief correctional officer of each State correctional system shall certify to the Attorney General that the State and each local jail or detention center with a population of more than 100 inmates in the State has in effect a system-wide mandatory functional literacy program.

(c) PROGRAM REQUIREMENTS.—(1) Each mandatory functional literacy program required by subsections (a) and (b) shall—

(A) to the extent possible, make use of advanced technologies, such as computer-based adult literacy learning; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case;

(iii) adequate opportunities for appropriate education services and the testing of all inmates for functional literacy upon arrival in the system or at the jail or detention center; and

(iv) an inmate participation incentive program, which may include—

(I) better housing opportunities;

(II) monetary incentives for achievement; and

(III) positive reports to parole authorities for inmates who participate and progress in the literacy program.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(d) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program required by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(e) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operaing the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(f) WITHHOLDING OF GRANTS.—(1) On and after the date that is 2 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's allocation to the State, to a State that does not have in effect a functional literacy program described in subsection (a).

(2) On and after the date that is 5 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's allocation to the State, to a State that does not have in effect a functional literacy program described in subsection (b).

(g) DEFINITION.—For the purpose of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

BIDEN AMENDMENTS NOS. 423 THROUGH 427

(Ordered to lie on the table.)

Mr. BIDEN submitted five amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 423

In the Hatch amendment No. 380, as modified and amended, in the "Section 2254 Amendments," strike the following:

"(3) by adding a new subsection (d) reading as follows:

(d) An application for a unit of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceeding."'

AMENDMENT NO. 424

In the Hatch amendment No. 380, as modified and amended, in proposed section 2259 of title 18 of the United States Code, strike the following in subsection (b): ", but the court shall not grant relief from a judgment or sentence on the basis of any claim that was fully and fairly adjudicated in state proceedings."

AMENDMENT NO. 425

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 426

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to State proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 427

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to State proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of clearly established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

BIDEN (AND OTHERS) AMENDMENT NO. 428

Mr. BIDEN (for himself, Mr. DOLE, and Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

On page 140, strike from line 3 through line 20;

On page 149, strike from line 13 through line 24;

On page 153, strike all from line 1 through line 19 on page 158.

STEVENS AMENDMENT NO. 429

Mr. STEVENS proposed an amendment to the bill S. 1241, supra, as follows:

On page 236, strike line 9 and all that follows through the end of the bill and insert the following:

SEC. 2701. MANDATORY INSTANT IDENTIFICATION OF FELONS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Mandatory Instant Identification of Felons Act of 1991".

(b) FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.—

(1) STATE INSTANT CRIMINAL CHECK SYSTEM.—(A) Not later than the date that is 24 months after the date of this Act, each State shall establish and maintain in operation's system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate the transferee is disqualified from receiving a handgun by reason of section 922 (g) or (n) of title 18, United States Code, and, if the transferee is not so disqualified, provides the licensee a unique identification number with respect to the transfer.

(E) A State instant criminal check system shall—

(i) provide for the privacy and security of the information contained in the system;

(ii) ensure that information conveyed to the system by a licensee pursuant to section 922(u)(1) of title 18, United States Code, is not recorded or noted in any form whatsoever, is not conveyed to any person except as person who has a need to know in order to carry out the purpose of that section, and is not used for any purpose other than to carry out that section; and

(iii) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information in accordance with subparagraph (C).

(c)(i) A State instant criminal check system shall provide that if the system informs a licensee that receipt of a handgun by a prospective transferee would violate section 922 (c) or (n) of title 18, United States Code, the transferee may request the head of the system to provide such other person with the reasons therefor.

(ii) On receipt of a request under clause (i), the head of a State instant criminal check system shall immediately comply with the request.

(iii) The transferee may submit to the head of the State system information to correct, clarify, or supplement records of the system with respect to the transferee.

(iv) After receipt of information under clause (iii), the head of the State system shall immediately consider the information, investigate the matter further, correct all erroneous State records relating to the transferee, and give notice of the error to any Federal department or agency or any State that was the source of the erroneous records.

(2) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(A) require that any record or portion thereof generated by a search of the criminal history of a prospective transferee under a State instant criminal check system established under paragraph (1) be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(B) use information provided by a State instant criminal check system established under paragraph (1) to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a handgun.

(3) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, as amended by section 702, is amended by adding at the end the following:

"(u)(1) Effective 24 months after the date of enactment of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer the licensee contacts the State instant criminal check system; and

"(E) the State system notifies the licensee that—

"(i) the State system, after a review of records, including records in the Federal National Crime Information Computer, has not located any record that demonstrates that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title; or

"(ii) the State system will not be able to respond to the licensee before the end of the next business day.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer; or

"(C) on application of the transferor, the head of the State system has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the system because of the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(B) Any action by the Secretary under subparagraph (A) shall be taken in accordance with the procedures provided in section 923(f).

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action of law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful under this section.".

(4) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(B) any combination of parts from which a firearm described in subparagraph (A) can be readily assembled.".

(5) PENALTY.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(B) by adding at the end the following:

"(4)(A) Whoever willfully violates subsection (u) of section 922 shall be fined not more than $1,000, imprisoned for not more than one year, or both, except as provided in subparagraph (E).

"(B) In a case of a violation under subparagraph (A) in connection with a transaction in which the transferee of a handgun is a person whose receipt of the handgun was not unlawful under this section, the offender shall be fined not more than $500, imprisoned not more than six months, or both.".

(c) IMPROVEMENT OF CRIMINAL JUSTICE RECORDS—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(B) There are authorized to be appropriated such sums as are necessary to carry out subparagraph (A).

(2) PROVISION OF STATE CRIMINAL RECORDS TO THE FEDERAL CRIMINAL RECORDS SYSTEM.—Not later than 60 days after the date of enactment of this Act the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the Federal criminal records system and the means by which State criminal records systems will communicate with the Federal system;

(B) investigate the criminal records system of each State and determine for each State the extent and degree of accuracy of criminal records that each State should, with reasonable effort, be able to provide, and will be required to provide, to the Federal system by the effective date of section 922(u) of title 18, United States Code, and thereafter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(3) FEDERAL SYSTEM.—Not later than the effective date of subsection (u) of section 922, United States Code, the Attorney General shall provide to each State computer access through the National Crime Information Computer to the criminal records contained in the computer including the records of other States through a computer network for the purpose of permitting the State to conduct instant criminal background checks required by section 922(u) of title 18, United States Code.

(4) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 (g) or (n) of title 18, United States Code, as may be necessary to enable the National Crime Information Computer to operate in accordance with this subsection. On request of the Attorney General, the head of such department or agency shall furnish such information to the Attorney General.

(5) IMPROVEMENTS IN STATE RECORDS.—

(A) In general.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(i) in paragraph (2) by striking the "and" after the semicolon;

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Mandatory Instant Identification of Felons Act of 1991 with the United States Attorney General for the purpose of implementing the Mandatory Instant Identification of Felons Act of 1991.".

(B) Additional funding.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end thereof the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1992 and all fiscal years thereafter $100,000,000 for the purpose of implementing the provisions of subsection (b)(4).".

(6) WITHHOLDING FUNDS.—Effective on the effective date of subsection (u) of section 922, United States Code, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with subsection (b)(1)(A) of this section and section 922(u) of title 18, United States Code, as added by this section.

(d) Increased Mandatory Minimum Sentences Without Release FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.—Section 924(c)(1) of title 18, United States code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm within intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release unless the death penalty is imposed under another provision of law.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

HEFLIN AMENDMENT NO. 430

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 243, line 21, after "criminal" insert "and mental".

On page 244, line 12, after "criminal" insert "and mental".

On page 244, line 24, after "criminal" insert "or mental history".

On page 245, after line 15, insert the following:

(e) DEFINITION.—For the purposes of this section, the term "mental history record" or "mental history file" means a record of adjudication as a mental defective or commitment to any mental institution.

BYRD AMENDMENT NOS. 431 AND 432

Mr. BYRD proposed two amendments to the bill S. 1241, supra; as follows:

AMENDMENT NO. 431

At the appropriate place, insert:

SECTION IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

AMENDMENT NO. 432

SEC. 2703.

On page 245, line 11, strike "General" and insert: "General, with preference given to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 25, 1991, at 10:30 a.m., to receive testimony on Senate Resolution 82, to establish a select committee on POW/MIA affairs.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 25, 1991, at 9:30 a.m., to receive testimony on S. 165, the Legislative Line-Item Veto Separate Enrollment Authority Act.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, July 23, at 9:30 a.m. The meeting will begin with a presentation by Mr. George White on the status of projects undertaken by the Office of the Architect of the Capitol, including the elevator program, the electrical improvements project, the recycling pilot, the Senate subway system, the Senate Chamber audio system, the Capitol terrace office project, the Capitol security plan, and the Post Office development.

Following the Architect's presentation, the committee will take up legislative and administrative business ready for consideration at the time of the meeting.

For further information regarding this hearing and markup, please contact Carole Blessington of the Rules Committee staff on 224-0278.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on S. 734, to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes, and S. 736, to amend the Outer Continental Shelf Lands Act.

The hearing will take place on Wednesday, July 17, 1991 beginning at 2 p.m. in room 366 of the Senate Dirksen Office Building in Washington, DC. Witnesses will testify by invitation only.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke of the committee staff at (202) 224-2383.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 27, 1991 at 10 a.m. to hear and consider the nominations of Desiree Tucker-Sorini, to be an Assistant Secretary of the Treasury; Janet A. Nuzum and Carol T. Crawford, to be members of the United States International Trade Commission; and to consider two bills (S.J. Res. 153 and S. 1084) regarding China's most-favored-nation status.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 27, at 10 a.m., to hold a hearing on United States relations with China and to vote on pending business items.

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

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 27, 1991 at 11 a.m.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 2 p.m., to hold a hearing on the Bankruptcy Code and individual debtors.

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

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 27, beginning at 9:30 a.m., to conduct a hearing on the issue of expanding the Federal Right to Know Program, including an examination of the discussion draft of the right to know more legislation.

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

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 9:30 a.m. for a hearing on "Caught in the Squeeze: Economic Pressure on Working Families."

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

SUBCOMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 9:30 a.m. to hold a closed markup on the fiscal year 1992 intelligence authorization bill.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Sub-

committee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 27, 1991, to receive testimony on S. 979, the Department of Energy Critical Technologies of 1991.

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

ADDITIONAL STATEMENTS

TRIBUTE TO ROBERT A. BOHLMAN

• Mr. KOHL. Mr. President, Chester Bowles once said:

Government is too big and important to be left to the politicians.

That rings particularly true with me when I consider the millions of lives we affect through the setting of our national priorities; when I consider the vast unmet needs of real people.

Fortunately for us, and for the people, we are sometimes saved from our own hands by the unelected, civil and public servants that help to make this system work.

There is a misconception outside of the beltway, I think, that people who work in Federal Government are 9-to-5 career bureaucrats disconnected from the real world. There is a public antipathy to Washington politics and the unelected, public servants often take the rap for that.

Contrary to that common perception, I have been incredibly impressed by the intelligence, commitment and energy of many of the people who work in this town.

Today, I want to recognize an individual who is one of the finest public servants I have had the opportunity to work with.

Bob Bohlman has served the State of Wisconsin's Department of Health and Social Services for 14 years. He began that service in the Washington State of Wisconsin office in 1977 under then Gov. Patrick Lucey. He served through the administrations of Governors Martin Schreiber, Lee Sherman Dreyfus, Tony Earl, and most recently, Tommy Thompson. He served the people of Wisconsin alongside Senators Bill Proxmire and Gaylord Nelson; alongside Representatives Robert Kastenmeier, Alvin Baldus, Clement Zablocki, Henry Reuss and William Steiger.

It is a testament, I think, to his commitment, expertise and unwavering advocacy for those in need, that he weathered partisan winds. And that is to his credit.

Bob has been an invaluable asset to the Wisconsin Department of Health and Social Services and to the delegation. He has been there at every turn when my staff or I needed information about the impact of this formula or that formula on Wisconsin. He has patiently educated so many of us on LIHEAP, AFDC, child support, foster care, the maternal and child health block grant—on virtually every aspect of the Social Security and Public Health Service Acts. If he didn't have the information we requested, he retrieved it and delivered it expediently. He has made significant contributions to sound public policy; and perhaps just as importantly, he has helped to prevent bad social policy. He has been the ultimate public servant; the ultimate team player.

As he moves forward in his career, all of us in the Wisconsin delegation will be a little bit less without his knowledge, seasoned judgment, and perseverance.

The tribute that I pay to him today is a very small token of my appreciation and best wishes.•

MARKET ACCESS—KEY TO A NEW GATT AGREEMENT

• Mr. SIMON. Mr. President, some weeks ago, someone sent me a copy of the remarks of Donald V. Fites, chairman and chief executive officer of Caterpillar, which is headquartered in my State.

Like all of us who get overrun with speeches and printed material, I put it aside until I was on an airplane trip to Los Angeles recently and had the opportunity to read it.

It seems to me what he suggests in terms of what we should keep in mind for the Uruguay round of the GATT agreements is right on target.

I was also interested in his observation that, in fact, we have been much more open to others than they have been to us, so that any agreements we can reach for opening market doors more freely serves to benefit the United States.

I ask to insert his remarks into the RECORD at this point.

The remarks follows:

REMARKS OF DONALD V. FITES, CHAIRMAN AND CEO, CATERPILLAR, INC., AND CHAIRMAN, NATIONAL FOREIGN TRADE COUNCIL

Mr. Chairman, Members of the Committee: I'm Don Fites, Chairman of Caterpillar Inc. Today, I'm testifying before you as Chairman of the National Foreign Trade Council (NFTC). The NFTC is the oldest and largest association formed to address international trade and investment issues. Its 500 corporate members account for more than 70 percent of U.S. exports.

Before relating NFTC's recommendations on GATT issues, let me recount a recent incident. The story points up a misconception that for some time has plagued discussions of the GATT. Earlier this year, a reporter for one of America's largest and most prestigious newspapers called us saying that he wanted to write an article about the market access portion of the GATT negotiations. Specifically, he wanted to write about the U.S. initiative called the "zero-for-zero tariff proposal." We were delighted. The zero-for-zero initiative is one of our top corporate priorities.

As it turned out, the reporter wasn't allowed to write his article because an editor didn't feel the story would be newsworthy. "After all," the reporter was told, "everyone knows that this GATT Round is about agriculture, services, and intellectual property protection."

It's unfortunate, but the editor was just echoing what many think . . . that the GATT begins and ends with agriculture, services, and intellectual property protection. And because of that perception, enthusiasm for a new GATT agreement has appeared lukewarm within America's manufacturing sector. That appearance is deceiving.

So if you'll permit me, this morning I want to leave discussion of those "other" issues to my colleagues. I want to talk about just one subject . . . market access!

As chairman of one of America's largest net exporters, I know that improved "market access" is not only key to the Uruguay Round . . . it's the critical ingredient for bolstering America's export performance during the 1990s and beyond.

To further open foreign markets, GATT negotiations must succeed in a number of areas. Of course, the most obvious market access issue involves tariffs. But, lower tariffs won't benefit many American manufacturers unless there are new GATT rules to ensure that exports aren't restricted. Some of the areas that deserve attention include:

GOVERNMENT PROCUREMENT PRACTICES

Access to a large overseas market . . . foreign government procurements . . . is today limited for U.S. heavy electrical, telecommunications, energy, and transportation firms by the exclusion of these sectors from coverage under the Government Procurement Code. What is particularly troubling about this phenomenon is that the U.S. market is wide open to foreign producers of these same products. The Government Procurement Code negotiation must be a priority if equity in market access is to be provided to U.S. exporters in these key sectors.

UNREASONABLE TECHNICAL STANDARDS

Greater discipline and broader application of the "standards" code would prevent technical standards and certification processes from being used to limit legitimate competition. Progress in this area would help ensure that governments do not use the standards-setting process as a new barrier to trade.

BALANCE OF PAYMENT RULES

Measures taken by developing countries for balance of payments reasons (Article XVIII) should be more disciplined. Restrictions on trade should be broad rather than product specific, should follow established guidelines, and should be limited to a specified period of time.

CUMBERSOME RULES OF ORIGIN

Negotiations to reduce non-tariff barriers should work toward eventual global harmonization of origin rules so that exporters can enjoy a more open and predictable trade environment and importers would be prevented from circumventing fair trade laws. A consensus should be achieved on the definition of "origin," on greater transparency, and on improvements in procedural due process.

Today, even antidumping rules are being used as barriers to U.S. exports. At least 27 nations have enacted antidumping laws . . . including Mexico, Korea, Brazil, and Argentina. Without improved GATT disciplines, antidumping actions could become the international "protectionist weapon of choice."

When I speak of antidumping reform, I want to be very precise. The issue is potentially a contentious one. NFTC's objective is that a new antidumping code provide greater transparency of procedures, better discipline

over circumvention, penalties to discourage repeat dumping, and other changes to ensure antidumping calculations are fairer.

As we see it, American manufacturers . . . their customers . . . and employees are poised to be the big winners if negotiators successfully craft a new GATT agreement that addresses these issues.

In a broader context, there are those who believe the risks associated with a new GATT are so great as to outweigh potential gains. We don't agree. In our view, the present international trade landscape largely represents trade rules of a past era * * * an era in which the United States was the world's only economic powerhouse and had the trade surplus to prove it. Although that era has long since ended * * * America's exporting manufacturers are still operating within the bounds of that old system.

Today—with a few notable exceptions—American markets for manufactured goods are open. Consequently, future U.S. market access concessions will likely be modest.

In contrast—while many of our trading partners have made impressive gains in productivity—their markets have only opened slightly.

Let me put it another way, when it comes to market access and the GATT * * * *the U.S. has already paid its dues * * * it's now time to collect*!

That's one reason why the National Foreign Trade Council has joined with the Zero Tariff Coalition to support the U.S. "zero-for-zero tariff proposal."

This initiative is about as straightforward as any GATT issue gets. Simply put, the United States has offered to eliminate import tariffs on the products of nine industrial sectors * * * so long as other countries agree to do the same. The sectors include: construction equipment, steel, non-ferrous materials, paper, wool products, electronics, pharmaceuticals, beer, and fish. Together, these proposed "Free Trade Sectors" account for about 30 percent of U.S. manufactured trade.

Any way you look at the zero-for-zero tariff proposal—it's not only fair, *it's a good deal for America*. For example, tariffs applied to Caterpillar-type products are about 4 to 2.5 percent in the United States * * * 4 to 11 percent in Europe * * * and over 15 percent in most developing countries. If the zero-for-zero initiative is successful, those tariffs would evaporate.

And what's true for the construction equipment industry is especially true for other zero tariff industries like semiconductors, paper, wood products, metals, and beer.

Before closing, I'd like to pass on a personal observation. There are a lot of estimates floating around Washington as to how much economic growth a new GATT agreement will generate * * * millions * * * billions * * * or even as much as a trillion dollars of growth during the next decade. I don't know what the correct number is * * * but I do know that whenever markets are opened, American manufacturers historically have benefited more than their greatest expectations.

The Mexican market is a current case in point. Since coming to office, President Salinas has stood up to "protectionists" in his country by ending many import restrictions. He opened the motor grader market in 1988 * * * reduced tariffs in 1989 * * * opened the diesel engine market in 1990. Anticipating these actions, we "guessed" that Cat exports to Mexico would increase by about $20 million. We were way off the mark. Last year Cat exports to Mexico nearly doubled * * * to $131 million.

To put $131 million in human terms, Cat exports to Mexico now generate work for 900 U.S. Caterpillar employers and 1,800 employees at the company's American suppliers.

Mr. Chairman, it's understandable that up to now, it's been *new* GATT areas commanding most of the world's attention. *New* areas often do. But for many NFTC members, the real GATT "pay off" will come by way of improved market access.

For these reasons, the NFTC urges the Senate not to interfere with the automatic two-year "fast track" extension of negotiating authority that was provided for in the Omnibus Trade Bill. Enacting fast track authority was the right decision in 1988. Preserving it is the right direction today.

That concludes my remarks. At this time, I'd be pleased to answer any questions.

Thank you.●

AIDS UPDATE

● Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of May 30, 1991, 179,136 Americans have been diagnosed with AIDS; 111,815 Americans have died from AIDS; and 67,321 Americans are currently living with AIDS.

WILL THERE BE AN AIDS CONFERENCE IN THE UNITED STATES IN 1992?

Mr. President, the Seventh Annual International Conference on AIDS has just concluded in Italy. AIDS researchers from around the world presented their findings on a host of HIV-related issues, from promising work on vaccines to the prospects for long-term survival of people with AIDS. This extraordinary yearly conference brings together the latest research on AIDS from all over the globe along with updates on how the pandemic is spreading.

Next year's conference is scheduled for Boston—but it may not take place, due to the political wrongheadedness of the Bush administration on the issue of preventing HIV-infected foreigners from visiting or immigrating to the United States.

Based upon medical evidence that AIDS is not transmitted by casual contact or through food, air, or water, the Department of Health and Human Services wisely proposed to remove HIV infection from the list of excludable diseases. But the Justice Department blocked the new policy, pending further study.

A recent editorial in the New York Times called the Bush administration position on this issue "a travesty" which makes the United States "a laughing stock in world medical circles."

The listing of HIV as an excludable disease should be based on sound medical evidence, not on politics. We should permit U.S. health authorities to decide what diseases should be grounds for exclusion. Allowing medical facts to guide our policies will help remove the misconceptions and fear that continue to shroud the truth about how AIDS is transmitted.

Mr. President, I ask that an editorial from the New York Times of June 19, 1991, be printed at this point in the RECORD.

The editorial follows:

[From the New York Times, June 19, 1991]

THIS AIDS BAN INVITES RIDICULE

The American policy to block visits or permanent immigration by foreigners infected with the AIDS virus came under justifiable criticism at the international AIDS conference in Italy this week. The policy has very little public health value. Its chief effect is to make the United States a laughingstock in world medical circles. The policy should be abandoned, quickly.

The U.S. currently bans entry to foreigners infected with several diseases, including syphilis, gonorrhea, leprosy, tuberculosis—and the virus that causes AIDS. But the Department of Health and Human Services has proposed to eliminate all but infectious tuberculosis from the list.

The wisdom behind that proposal seems plain. Neither AIDS nor any of the other diseases to be struck is spread through air, food or water to casual bystanders. Virtually the only way for an adult to get AIDS in this country is through unprotected sexual intercourse with an infected person or by sharing contaminated drug needles.

But the Justice Department, responding to an avalanche of complaints, blocked the new H.H.S. policy, leaving the old rules in place pending further debate. The two chief arguments for the ban are superficially plausible. One is that some of the infected foreigners will surely spread the virus to Americans. The other is that infected immigrants will eventually require costly care.

But the danger is slight. And if cost is the issue, then the U.S. would ban all foreigners with kidney disease, cancer or other costly ailments. It enforces no such mean-spirited policy in those cases, nor should it for AIDS.

The ban is particularly silly for short-term visitors. Trying even to identify such individuals brings widespread condemnation. The World Health Organization and European health ministers plan to boycott the international AIDS conference in Boston next year unless the U.S. changes its policy.

How to handle foreigners seeking permanent residency is a tougher issue because the longer they stay the greater the chance some might spread the virus or require care. But by one government estimate, only about 600 AIDS-infected individuals would be admitted as permanent residents each year—compared with a million Americans already infected. And finding them among the 600,000 admitted each year would require costly testing. If the goal is to fight AIDS, this is not where to spend the money. The rate of infection is far less among the foreigners than among Americans.

What a travesty that the United States, with one of the largest AIDS-infected populations in the world, has taken a stance that implies the danger comes from abroad. The Bush Administration should reverse this ban, whose chief effect is to give the U.S. an international black eye.●

A GREAT DECISION BY FUJISAWA

● Mr. SIMON. Mr. President, I want to take this opportunity to bring to the attention of my colleagues the recent decision of the Fujisawa Pharmaceutical Co. to reduce by 20 percent the price of pentamidine. Pentamidine, as

many of my colleagues know, is an FDA-approved drug used to treat and prevent pneumocystis carinii pneumonia, a life threatening pneumonia that is particularly prevalent in persons with AIDS and others whose immune systems are severely compromised.

This reduction by Fujisawa means a signficant cost savings for individuals now using pentamidine. It will reduce the cost of preventative care, both to individuals and to the Government at a time when the importance of early intervention in the management of HIV-related conditions is being increasingly recognized.

As Congress and the rest of the Nation pause to mark the 10th anniversary of the identification or "discovery" of the AIDS virus, I commend Fujisawa's decision to cut the price of pentamidine and to continue research on new products to address the AIDS crisis.

Again, I commend this decision and I hope that other firms will follow this lead to lower prices on drugs in the ongoing AIDS fight.•

PAPERWORK REDUCTION

• Mr. KASTEN. Mr. President, in a recent speech to small business owners, President Bush pledged to block costly Federal rules and redtape. He said the Government must remove some of the obstacles it has created. Last year, regulations cost the economy at least $185 billion. The President even suggested a Surgeon General's warning for the Federal Register in which proposed regulations are published: "Do not attempt to lift unless your name is Arnold Schwarzenegger."

Americans spent more than 5.3 billion hours filling out government forms last year. According to estimates, this is enough to keep 2 million people doing nothing but cutting through redtape year round. The costs, both in aggravation and in lost productivity, are inexcusable.

But unless Congress does something to reduce the paperwork demands Federal agencies place on innovators and business people, Arnold himself may need a helping hand.

The Federal redtape burden hits small business owners the hardest. Because I was a small business owner before entering public life, I know what it means: It means you have to hire extra workers for the sole purpose of filling out forms—as opposed to producing worthwhile, marketable products or services.

Opponents of the Paperwork Reduction Act claim that OMB has abused its power by taking regulatory authority away from the real experts of the Federal agencies. And in an effort to curb OMB they have introduced legislation that would seriously hinder OMB's ability to police government paperwork.

This bill comes on the heels of a 1990 decision by the Supreme Court, Dole versus United Steelworkers of America, that also has weakened efforts to curb excessive paperwork.

Driven by the Court's decision as well as by the desire to strengthen the 1980 legislation, I've joined SAM NUNN and other members of the Small Business Committee in introducing the Paperwork Reduction Act of 1991.

In the early 1980's, then-Vice President Bush spearheaded the Reagan administration's successful effort to reduce the regulatory burden on the productive sector, helping spark the economic recovery. Vice President DAN QUAYLE is building on this effort through his leadership on the President's Council on Competitiveness. I certainly hope the administration will end its silence soon on our bill and offer its firm support.

Unless we place some check on the Federal bureaucrats, unchecked regulation will threaten economic growth. Restoring—and strengthening—OMB's power to restrain the bureaucracy's natural propensity to impose excessive regulatory and redtape burdens on our entrepreneurs is needed now more than ever.

Mr. President, on June 25, 1991, the Small Business Committee held a hearing regarding the paperwork burden on small businesses. We heard from many knowledgeable and informative witnesses that gave firsthand accounts of the time and effort involved in completing government imposed paperwork. Also testifying was Mr. T. Michael Bolger of the Medical College of Wisconsin. I think it is important to recognize that research institutions must also comply with excessive government paperwork and regulations. Mr. Bolger gave the committee a firsthand account of the mountain of forms that institutions have to fill out in order to comply with the government regulations.

I would like to bring Mr. Bolger's testimony to the attention of the Senate. Mr. Bolger's testimony makes a compelling case for strengthening the Paperwork Reduction Act. Paperwork regulations are not only burdensome to small businesses, but to learning and research institutions as well.

I ask that Mr. Bolger's testimony be printed in the RECORD immediately following my remarks.

The testimony follows:

TESTIMONY BY T. MICHAEL BOLGER, PRESIDENT, MEDICAL COLLEGE OF WISCONSIN

Mr. Chairman, thank you for this opportunity to discuss the burden of federal paperwork imposed upon institutions such as the Medical College of Wisconsin. First, however, I wish to thank Senator Kasten for his championship of the Paperwork Reduction Act of 1991. He is a loyal friend of small business, and is acutely aware of the regulatory burden borne by these institutions. His concern and advocacy is appreciated throughout the State of Wisconsin.

I'd like to begin by briefly describing the Medical College of Wisconsin. It is the third largest, private medical college in the United States, and is located on the Milwaukee Regional Medical Center campus, in Milwaukee, Wisconsin. The school grants doctoral degrees in the medical and basic sciences, as well as masters degrees in the basic sciences, and public health.

Research is integral to any academic institution, and we are no exception. Last year, Medical College of Wisconsin faculty conducted over $40,000,000 of clinical and basic science research. Over 75 percent of this research is funded through federal, peer-reviewed sources.

We are afiliated with five other major health care institutions on the campus, and utilize their facilities as our primary teaching sites. Our faculty provide the staffing at most of these facilities, and are the largest providers of indigent care in the area—over $15,000,000 last year alone. We also have affiliations with a number of community and rural hospitals throughout the State for selected training programs.

We are not, therefore, an institution with a single focus. MCW has multiple missions; education, patient care, research, and community service. As an organization, we must comply with the regulatory paperwork associated with each mission. These reporting requirements are not limited to just the federal government. The Local and State governments also impose reporting requirements on institutions such as MCW. In addition, we are frequently asked to submit data to various professional associations with whom we participate, such as the American Association of Medical Colleges [AAMC], the Association of Academic Health Center [AHC], and the American Medical Association [AMA].

The amount of paperwork generated is astounding. Although the need for the data is undoubtedly legitimate, it is rarely requested in the same format twice, and is usually not comparable due to the differences in definitions generated by the various entities.

A classic example is Affirmative Action. The Federal Government annually requires us to update our Affirmative Act Plan. For our institution, the actual plan is over four inches thick. It must be completely re-written each year, due to changes in program dates and information required due to recent regulatory changes.

The State of Wisconsin and Milwaukee County Governments also require annual submission of an Affirmative Action Plan. Unfortunately, the type of information requested, and the minority definitions are not consenting among the requests. Therefore, we must submit completely separate plans to each governmental unit, and each sumbission is over the four inches thick. Consuming not only vast quantities of paper, but also vast quantities of expensive staff time.

The material generated by research proposals is also significant. The Federal Government properly requires detailed information regarding research grant proposals. This assures not only the integrity of the research, but also verifies the appropriateness of the expenditures. We feel that overall the paperwork that is requested is necessary.

However, the approval process unfortunately can generate a significant amount of duplicate paperwork.

For example, a research protocol is approved for use at a specific site. The funding agencies require the original grant proposal plus six copies. When the protocol is ex-

panded for use at other sites connected to the institution, a complete set of documentation must be submitted to certify the approval of the new site.

This means that even though the research protocol has already been approved, all of the information must be resubmitted along with a form documenting approval by the additional hospital's internal research review committee. For an institution which affiliates with numerous hospitals, such as MCW, this can create a significant amount of both duplicate paperwork and cost.

Overall, I think must agencies attempt to minimize their requests of extraneous data. However, the lack of coordination among different levels of governments and among agencies, can be burdensome.

Often, information is requested for a current isolated need, but is provided in perpetuity based upon historical precedence; and no longer based upon need.

There ought to be a mechanism to review information requests not only to determine the need and utility of the data request; but also to discern at what point in time the informational need is no longer critical.

An example of this is the Disabled Veterans & Viet Nam Veterans Report. While information on the employment of Disabled Veterans will always be relevant, I'm not sure that the information regarding the employment of Viet Nam Veterans will remain as pertinent. However, I assume that this information will continue to be collected until a national situation arises regarding the employment of veterans of a more recent conflict than View Nam.

Accordingly, there needs to be a mechanism to balance federal information needs against the burden it imposes upon the public to gather and maintain the data. I wholeheartedly support the proposed Paperwork Reduction Act of 1991; and I urge the members of this Committee to also lend their support.

Thank you very much.•

HOUSING INITIATIVE IN GREENSBORO, NC

• Mr. SANFORD. Mr. President, I would like to share some information with my colleagues about an exciting new initiative being implemented in my State by Freddie Mac and the city of Greensboro to help expand homeownership opportunities for low- to moderate-income families in the Greensboro area. I am very pleased that Freddie Mac, in partnership with the city of Greensboro, has included in its multi-billion-dollar national affordable housing program a $5 million initiative designed to help approximately 100 local Greensboro families.

As many know, Freddie Mac is a stockholder-owned corporation which was chartered by Congress in 1970 for the purpose of creating a continuous flow of funds to mortgage lenders supporting homeownership and rental housing. Since then, Freddie Mac has taken a leading role in the secondary mortgage market and now finances one out of eight American homes. The $5 million Greensboro initiative is one portion of Freddie Mac's overall commitment to provide approximately $3 billion in affordable homeownership and rental housing in 1991 and 1992.

Under the Greensboro Initiative, Freddie Mac will purchase $5 million in mortgages which will be originated by First Union Mortgage and insured by the United Guarantee Residential Insurance Co., two local financial institutions. This plan should bring greater efficiency as well as the lower costs of the secondary mortgage market to the lender, the investor, and most importantly the homebuyers.

Another critical aspect of this program involves borrower counseling which will be provided by Triad Housing Counseling Service [THCS] and funded by the city of Greensboro. THCS will provide financial counseling, homeownership training, home search assistance, and post-purchase counseling in association with North Carolina A&T State University. I believe this service will help everyone involved to better understand the benefits and requirements of the entire program.

Furthermore, through this program, modifications in the underwriting and servicing guidelines which will give familes access to financing that would not otherwise be available to them. For instance, utility companies provide credit to those individuals who would not otherwise acquire it due to their poor credit history. Another modification allows borrowers to spend 33 percent of their income on housing expenses. These stipulations make financing more feasible for Greensboro's low-income families.

I think the potential success of this program will lie in the tremendous partnership which has been formed between Freddie Mac, the city of Greensboro, North Carolina, A&T State University, local financial institutions, community based organizations and prospective borrowers.

On behalf of my colleagues, I would like to applaud this innovative program and commend all participants involved in their efforts to assist the low-income families of Greensboro to own their own homes and to offer it as a paradigm for our Nation's cities as they look for ways to provide their citizens access to decent and affordable housing.•

SCHOOLS IN DISREPAIR

• Mr. SIMON. Mr. President, recent series of articles in the Chicago Sun-Times reveals the disturbing, deteriorated physical condition of many of the schools in our Nation.

The Sun-Times reports that the 400,000 students who spend their days in Chicago's public schools are in harm's way. According to one article, on any given day, the Chicago public schools have approximately 900 fire and building code violations. Lack of maintenance is undermining the buildings that we trust to protect our most-valued resource—our children. Instead of fostering an educational environment that is safe and conducive to learning, many school buildings in Chicago and in urban centers across the Nation are dangerous and disruptive to student learning. According to a 1989 study by the Education Writers Association, a full 25 percent of all U.S. public school buildings are inadequate places for learning. They are structurally unsound and are in need of basic maintenance or major repairs.

My colleague from Massachusetts, Senator KENNEDY, has introduced a bill that, among other things, would provide some assistance to schools desperately in need of repair and renovation. S. 1135 would also encourage comprehensive school restructuring and help schools to meet the national education goals.

Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 1135. I also ask that two of the articles from the Sun-Times series—"Troublesome National Trend: Putting Off Repairs" by Maribeth Vander Weele, and "City Officials See No Easy Way Out of Schools' Crisis" by Maureen O'Donnell—be printed in the RECORD. I would be glad to provide a copy of the entire series of articles to any of my colleagues who are interested.

The articles follow:

CITY OFFICIALS SEE NO EASY WAY OUT OF SCHOOLS' CRISIS

(By Maureen O'Donnell)

Chicago leaders are calling disrepair in the city's public schools "heartbreaking" but say there's no quick fix.

"What we're seeing come to roost are the decades of negligence and the priorities being put elsewhere," said Avis LaVelle, Mayor Daley's press secretary. "It's heartbreaking."

School maintenance "was put at the bottom of the list because of other concerns . . . like keeping the [schools'] doors open," LaVelle said.

"I can't apologize for money being shifted from maintenance for teachers [salaries] and other employees. If your choice is a modern facility—with no teachers there to teach—then it does you no good."

Mayor Daley, who has children in private schools, is not insensitive to the problem, she said. She recalled that Daley helped get a bond issue of more than $200 million through the city's Public Building Commission to rehabilitate schools.

But even with that money, "the system is still breaking down," said Ald. Patrick J. O'Connor (40th), who heads the City Council Education Committee.

"Maintenance is always the first place that gets raided," said O'Connor, who is chairman of the local school council at Hawthorne Academy, which two of his children attend. Upkeep there is a "constant struggle," he said.

O'Connor said repair raids should stop. Referring to a legislative maneuver last year to let the School Board divert maintenance money for employee salaries, O'Connor said, "The fact is, they then excuse the board from spending it on repairs."

Board officials will go before the City Council Education Committee in May to talk about their budget shortfall, he said.

The committee will use that information to lobby for help in Springfield.

"That's where we'll fashion an attempt to begin to resolve the problem," O'Connor said. "It's a 10-year hole. It's not going to be resolved in one legislative session."

School Board member Ashish Sen said Chicago Sun-Times reports about ruined and decrepit city schools will help its Real Estate Committee protect what money the board has left for maintenance and repair. With a School Board deficit looming, the committee needs to protect those dollars from further cannibalization, said Sen, who is chairman of the committee.

School Board President Clinton Bristow Jr. said he wants the Real Estate Committee to find other sources of money, including possibly leasing schools after classes.

Asked why people would want to rent schools that are in disrepair, Bristow said: "That's what our Real Estate Committee is going to take a look at. . . . I'm aware of the physical conditions of the schools, and it is something that's a high priority of our board."

Another possible funding source, Bristow said, is a bill being pushed by a national organization of major school districts, the Council of Great City Schools. The legislation, known as the Urban Schools of America Act, is an effort to get more federal funding for troubled urban schools.

TROUBLESOME NATIONAL TREND: PUTTING OFF REPAIRS

(By Maribeth Vander Weele)

Cash is short in public schools. Programs are essential. And cuts must be made.

But where?

School systems across the country have asked that question and found that the least painful place—in the beginning—is in building repairs.

"Initially you don't really see the impact," said Margaret A. Scholl, maintenance branch director of the Los Angeles Unified School District. "It takes a long time for it to be felt."

It begins when policymakers postpone a year of repairs. Another year goes by, and the backlog keeps growing. "Then you're so far in the hole that you don't see any way out," Scholl said.

The Los Angeles public school system now needs about $1 billion to rehab its more than 650 schools and build or buy new ones, some of which operate year-round. Only $18.8 million is available this year.

The Los Angeles system arrived at its current crisis by postponing repairs. Since 1968, the schools' maintenance staff has dropped from 2,5000 to 1,500, Scholl said. Its building problems requiring immediate attention each year exceed 250,000.

The scenario in Los Angeles is played out throughout the nation.

One-quarter of U.S. public schools are shoddy places for learning, according to a 1989 study by the Education Writers Association. They need basic maintenance or major repairs. Some are obsolete. Others have environmental hazards or are structurally unsound.

More than half of U.S. schools were built in the 1950s and 1960s, generally a time of rapid, cheap construction, the study found.

Detroit has only enough money to fill about 10 percent of its estimated $1 billion capital need, said Darrell Burks, deputy superintendent of fiscal integrity for the Detroit Board of Education.

"When you don't have the ability to fix the problem, the shape is obvious," Burks said. "It's like a car you bought 30 years and you haven't maintained it."

For 12 years, the Detroit school system did "virtually no maintenance," said Mike Ugorcak, an architect with the system there. "We're just beginning to do some maintenance now. For a period of 10 to 12 years, we did absolutely no aesthetic painting at all."

New York has about $17 billion in building needs, according to Doris Gonzalez-Light, chief executive for school facilities. It has $4.3 billion available.

"More than half of our school buildings are more than 50 years old, and almost every one is in some state of serious disrepair, with problems ranging from leaking roofs to faulty boilers to broken windows," said Bob Terte, spokesman for the New York City school system.

BUILDING NEEDS IN MAJOR CITIES

School system	Estimated capital need	Amount available	Number of schools	Number of students
New York	$17 billion	$4.3 billion	1,000	940,000
Los Angeles	1 billion	18.8 million	650	650,000
Chicago	1.1 billion	240.3 million [1]	601	409,000
Detroit	1 billion	100 million	248	180,000

[1] Chicago is expected to borrow 155.7 million more this year.

Note.—Figures include the cost of repairs and new schools.

Source: Officials from the various school systems. Most numbers are rounded.•

NAS WHIDBEY ISLAND

• Mr. GORTON. Mr. President, when NAS Whidbey Island was slated for closure, the task of challenging Secretary Cheney's decision was onerous. This task would require the Washington State delegation and the community of Whidbey Island to work together toward achieving the goal of saving NAS Whidbey.

NAS Whidbey is one of America's finest naval air stations. In addition to the unique training conditions for A-6 pilots, the military personnel who are stationed at NAS Whidbey enjoy a quality of life unmatched by most bases. More important to the people outside Washington State, is that it will cost the Navy and the taxpayers more dollars to close NAS Whidbey than it will to keep it operating.

The Washington State delegation recognizes the value of NAS Whidbey, and I am pleased to say, we have worked to enlighten the committee on NAS Whidbey's importance to our national defense.

Individual members of the Washington delegation disagree on many policy issues, but they have a strong tradition of working well on many localized issues, the most recent being NAS Whidbey Island.

The Base Closure Commission makes its final decision on NAS Whidbey on Sunday. I commend both my colleagues from Washington State, and the citizens of Oak Harbor. Together, the citizens and the delegation have worked diligently to provide the Base Closure Commission with the information to make a balanced and fair decision.

When delegation members testified before the Commission, Senator ADAMS reaffirmed that if NAS Whidbey closes, the A-6, and EA-6 community will move to NAS Lemoore. The crowded airspace at NAS Lemoore will undermine A-6 and EA-6 training. Representative AL SWIFT's district will be most affected by this decision. He thoughtfully outlined community impact. Representative NORM DICKS applied his military expertise to explain why this closure would be detrimental to America's national defense. Representative JOHN MILLER accepted a base closure in his own district for the cause of keeping NAS Whidbey open. Representative ROD CHANDLER used his experience as a pilot to highlight NAS Whidbey's unique all weather training and electronic jamming opportunities. Finally, I asserted that the Navy will end up spending more to close NAS Whidbey than it could ever possibly save. Together, the delegation effectively argued why NAS Whidbey should remain open.

The Washington State delegation has worked hard indeed, but at the core of our efforts lies the dedication of the Oak Harbor community. Never once did they hesitate to provide us with a necessary fact or number. They did an exceptional job in wading through information to formulate a direct and persuasive testimony. The community of Oak Harbor provided the impetus to make our coalition work. This united communmity effort gave the Washington State delegation unconditional support and strength in explaining NAS Whidbey's unique qualities. I commend their dedication and offer my thanks for their invaluable service.

I am hopeful and optimistic that NAS Whidbey will remain open, but, whatever the outcome, I will walk away from this experience satisfied that the Washington State delegation and the Oak Harbor community did everything in their power to save NAS Whidbey Island.•

NEW FINANCE COMMITTEE MEMBER

• Mr. DURENBERGER. Mr. President, this morning the Senate Finance met to consider resolutions relating to the President's request for an unconditional extension of most-favored-nation status to the People's Republic of China. At a later time, I will be discussing that matter on the floor of the Senate.

What is special about today's meeting of the Finance Committee is that the committee has the privilege of a new member on the Republican side. I am, of course, referring to our distinguished colleague from Utah, Senator HATCH.

As the only Member of the Senate to serve on both the Finance Committee and the Labor and Human Resources Committee, I am extremely pleased at my colleague ORRIN HATCH's decision

to become a member of the Finance Committee.

In the 13 years I have served on the Finance Committee, it has played a most significant role in reforming tax, earnings, social insurance, health, and international trade policy. At the same time, my colleague from Utah has been a most substantial contributor to improving national policy in each of these areas.

He served 6 years as chairman of the Committee on Labor and Human Resources and is currently in his fifth year as ranking member of the committee. I have enjoyed serving under his leadership on the Labor Committee since 1989. We also served together in the first 2 years of his 5 years on the Senate Select Committee on Intelligence.

ORRIN HATCH has deserved recognition as a national leader in many fields—especially health care. I look forward to working with my colleague on both committees to guarantee universal access to quality health care.

I welcome my friend and Russell Building neighbor ORRIN HATCH to the Finance Committee with the sure knowledge that the active involvement that both of us bring to the interrelated income security and health issues will help speed up the process or reform.●

TRIBUTE TO CHASE N. PETERSON, PRESIDENT, UNIVERSITY OF UTAH

● Mr. GARN. Mr. President, the State of Utah and indeed the Nation have been well served over the past 8 years by the presidency of Chase N. Peterson at the University of Utah. Upon his retirement at the end of June, 1991, it is fitting to note the distinctiveness of his tenure and to applaud his legacy of progress. He accepted his mandate to lead, and he applied himself in that capacity in ways that are both exemplary and laudatory.

During his time in office, total university revenues increased from $305.5 million to $583.5 million. State tax funding climbed from $90.7 million to $131.7 million. Revenue from research grants and student aid went from $59.8 million to $110.8 million. Between 1983 and 1991, the portion of research overhead retained by the university rose from 25 percent to 100 percent.

Conversely, during President Peterson's tenure, the university had to deal with retroactive cuts in legislative appropriations, and in 1986 Peterson announced an 8.3 percent base budget cut.

In 1988, he played a statewide leadership role in fighting off tax initiatives that would have cut $15 million from the university's tax support. Last year, under his leadership, the university completed a 5-year, $150 million fundraising campaign, which accounted for a total of $212 million, including $2 million from faculty and staff—unparalleled feat at the University of Utah.

His legacy includes the establishment of numerous endowed chairs; a best-in-the-nation heart transplant program; a state-of-the-art genetics research building; completion of the regional Moran Eye Center; plans for a biopolymer research facility; construction started on a campus broadcast center; completion of a first-class tennis center with an indoor football facility underway; establishment of the Lowell Bennion Community Service Center; designation of a national poet laureate and two MacArthur award winners, the same year, from among the faculty; establishment of the region's first known annual Martin Luther King, Jr., celebration; several national championships in women's gymnastics and skiing; opening of a national model center for dance; establishment of the Garn Institute of Finance; spearheading an unbiased and scientific exploration into the merits of the cold-fusion phenomenon; expansion of the university's research park with a doubling of building value and an estimated economic impact on the State of $300 million; acquisition of a portion of historic Fort Douglas with privately funded plans for a center of scholarship; establishment of a humanities center; expansion of high school recruiting efforts; and a campuswide concentration on enhancing the undergraduate experience.

Additionally, he has performed the following service: chair, National Association of State Universities and Land Grant Colleges; chair, U.S. Office of Technology Assessment Advisory Council; chair, Tanner Lectures on Human Values; director, American Council on Education; member, NCAA President's Commission on Athletics; and member, Knight Commission on Intercollegiate Athletics.

President Peterson has distinguished himself as an educational statesman, an articulate advocate for higher education, a leader of prescience, tact, grace, forthrightness, humor, tenacity, good will, and charm. He deserves our appreciation; he has earned our applause.●

ANTI-SEMITISM IN ROMANIA

● Mr. DeCONCINI. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, I have taken a strong interest in the many developments that have transpired in East-Central Europe since 1989.

The fall of communism in that region has brought forth a future rich in hope, opportunity, and change. In the heady aftermath of 1989, the explosion of freedoms and the lessening of tensions between East and West seemed to promise a safer, more peaceful era. Much of what we see today is encouraging, as the former Eastern bloc countries embrace the principles of democracy, free market economies, and the rule of law. But clouding the horizon is a resurgence of discrimination and prejudice we all hoped had been relegated to the past.

Despite the fact that only some 18,000 Jews remain in Romania, a country of 23 million, a virulent strain of anti-Semitism has emerged since the revolution of December of 1989. Ultra-nationalist newspapers such as Romania Mare, edited by two of Ceausescu's former propagandists, regularly print anti-Semitic and inflammatory articles. Romania Mare has the largest circulation of any weekly paper in Romania. Jews are accused of having been responsible for communism, and for currently holding too many positions of power. One paper decried the "inborn arrogance and superiority" of the Jewish race. Another advised Jews to "leave this country alone." Chief Rabbi Moses Rosen, who has received numerous threats, has urged Romania's remaining Jews to emigrate to Israel.

Equally disturbing has been the recent effort to rehabilitate the memory of former dictator Marshal Ion Antonescu, executed as a war criminal in 1946. Earlier this month, President Ion Iliescu openly condemned Antonescu and recalled his complicity with Hitler. Nonetheless, it is my understanding that the National Salvation Front's own press organ, Azi, failed to report Iliescu's statement. The Government has also recently issued two statements condemning anti-Semitism and chauvinism. I wonder how widely publicized these statements have been.

The Romanian leaders are well aware of the commitments contained in the historic Paris Charter, signed by the leaders of the 34 participating CSCE states just last year. In the Paris Charter, all CSCE states explicitly expressed their determination "to combat all forms of racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination against anyone as well as persecution on religious and ideological grounds." Such words are not to be taken lightly.

Acts of discrimination or violence based on hate are of serious concern in many countries, including our own. And I believe the governments have a responsibility to respond. Some suggest that the way to address these acts is through censorship—preventing freedom of speech or association. I disagree. Instead, governments can promote respect for diversity through fair and equitable treatment under the law. Governments can provide committed and compassionate leadership. Governments can act to redress wrongs when they occur. Governments can promote tolerance by the policies they make and the attitudes they project. It is not enough for a government official to be open-minded or non-discriminatory him- or herself. Leadership demands a

bold and consistent demonstration of those beliefs. Leadership demands providing a model for others.

In the past, I have been disturbed by the Romanian Government's apparent unwillingness to distance itself from the nationalist press. I am therefore encouraged by President Iliescu's recent stand, and by the official statements condemning extremist and anti-Semitic articles. On July 1 and 2, the Romanian Government plans to hold a commemorative tribute for the thousands of Jews who died in the Pogrom of 1941. As I understand, President Iliescu and Prime Minister Roman will attend the 2-day ceremony, along with a high-level delegation from Israel. I commend the Romanian leadership for this gesture, and hope that it represents their firm commitment to protect the rights and the dignity of all Romanian citizens.•

ENTERPRISE FOR THE AMERICAS INITIATIVE [EAI]

• Mr. LUGAR. Mr. President, today is the first anniversary of President Bush's announcement of the Enterprise for the Americas Initiative [EAI]. Last June 27, the President unveiled what was hailed then and now as one of the most significant policy initiatives ever undertaken by an American President on behalf of the countries in the Western Hemisphere. The initiative heralds a new era of commitments with our neighbors for democracy and economic reform.

For reasons still unclear to me, the EAI received scant attention in the U.S. media. When it was reported in the press, it tended to be placed in the business section or buried somewhere in the back pages. Thankfully, it has received far greater coverage and far more interest throughout Latin America and the Caribbean where the degree of enthusiasm and support exceeds our own.

Every leader in the hemisphere with whom I have talked during the past year puts the Enterprise for the Americas Initiative at or near the top of his or her agenda. President Perez of Venezuela has called the EAI "the most important proposal ever received by countries south of the Rio Grande." Enrique Iglesius, President of the Inter-American Development Bank [IDB], stated that the EAI provided the hemispheric nations "a way * * * out of the economic swamp." And, the recent OAS conference in Santiago, Chile, gave the EAI its "unanimous and unequivocal welcome." These and other endorsements from leaders throughout the hemisphere reveal an intensity of interest and commitment long absent in our relations with Latin and Caribbean nations.

The EAI embraces three critical elements: trade liberalization, enhanced investment and capital flows, and debt relief with a strong environmental component.

The prospect of free or freer trade in the hemisphere has been received with enthusiasm. Now that we have extended the fast track authority, the first critical step to a free trade system in the hemisphere has begun with the start of talks on the North American Free-Trade Agreement with Mexico and Canada. Other countries in Latin America are seeking to begin negotiations as well. Already some dozen framework agreements have been concluded since last June. Argentina, Brazil, Paraguay, and Uruguay plan to form a common market by 1996. The Andean countries plan a common external tariff by next year and a free-trade agreement by 1996. Mexico and Central America are discussing a free-trade agreement. There is now great momentum for trade liberalization in the hemisphere and that is welcome indeed. For countries such as Chile which has already liberalized its economy significantly, it would be helpful if the International Trade Commission were to initiate a study on the impact of a FTA on the United States economy.

On the investment side, the EAI includes a $1.5 billion multilateral investment fund in the Interamerican Development Bank [IDB] to assist in reforming investment regimes. The IDB has taken the lead in assisting Latin and Caribbean countries to become more competitive in attracting capital for economic growth. The new lending program of the IDB will help countries liberalize their investment regimes and compete for capital. The first investment sector loan, amounting to $150 million, has already been extended to Chile by the IDB Board. Many other countries have expressed active interest and are negotiating investment loans as well.

It is significant that the Multilateral Investment Fund established under the rubric of the EAI has elicited funding commitments by Japan which has pledged $100 million per year for 5 years and other creditor nations in Europe have communicated an interest and intent to contribute as well. This fund is important not just because it indicates a multilateral commitment to the economies of Latin America and the Caribbean, but also because it will further the privatizing of government-owned industry, increased worker productivity and help small businesses gain access to capital.

The third leg of the EAI is debt relief. The EAI gives authority to reduce some official debt owed by Latin American countries to the United States. Several countries have moved already to reduce their commercial debt under the Brady plan. The EAI offers the opportunity to turn debt interest payments into local currency for environmental protection. By helping to reduce official debt owed the United States we can provide support for economic reform.

Last year, we included in the farm bill a provision permitting debt reductions from Public Law 480 loans among eligible and participating countries. Now, the Congress is poised to permit similar authority to reduce AID-related debt through a framework allowing for interest payments to be made in local currency and used for grassroots environmental purposes. I hope the Senate and the Congress can act expeditiously to authorize this provision and to pass the Enterprise for the Americas Initiative.

Finally, Mr. President I want to note that one of the most fundamental political transformations ever recorded has been taking place within the hemisphere. All countries, except for Cuba, have democratically elected governments and most are moving to liberalize their economies. This is wonderful news that, for reasons again unknown to me, does not draw the headlines and rave reviews it deserves.

Many of the new democracies are fragile, but there are great expectations that things are going to get better. It is the grand challenge before us in the hemisphere to do what we can to assist in helping provide a better and more productive life. I sincerely believe the Enterprise for the Americas Initiative can make a major contribution to that end. That would be good for our friends throughout Latin America and the Caribbean, and it would be good for the United States.

So, I want to once again express my congratulations to President Bush and his team for proposing the EAI. One year has passed; it is now time to move toward implementation of this historic proposal.•

IN MEMORY OF BALTIC VICTIMS OF COMMUNISM, 1941-91

• Mr. GORTON. Mr. President, earlier this month, Gundar King, a Latvian and dean of the Business School at Pacific Lutheran University in Tacoma, spoke in recognition of the 50th anniversary of the deportation of citizens living in Estonia, Latvia, and Lithuania to the Soviet Union.

The experience of Mr. King's family during the Soviet's incorporation of the Baltic nations details a few of the many crimes in this region that the Soviets have not acknowledged. As we push to strengthen independence movements in the Baltics, we should follow Mr. King's advice by pressuring the Soviets to recognize the victims of this deportation. With such a gesture, the Soviets could assure us of their intentions in resolving all conflicts with the Baltic States.

I ask to insert Mr. King's speech into the RECORD at this point.

The article follows:

REMARKS IN MEMORY OF BALTIC VICTIMS OF COMMUNISM 1941–91

(By Gundar J. King at the Latvian House in Seattle, June 14, 1991)

Today, is the 50th anniversary of the massive deportations when thousands of Estonians, Latvians, and Lithuanians were brutally rounded up and deported from their Baltic homes to the Soviet Union. These deportations are not the first or the last of Soviet atrocities in the Baltic states. They are neither the largest, nor are they the most brutal. Nor are these deportations especially identifiable with any particular ethnic group or political persuasion. It is commonly known that the victims of these deportations included leaders of the Baltic nations, skilled and unskilled workers, valuable experts of all professions, creative artists, outstanding farmers, students and professors, old people, school children, and even infants in their mothers' arms. It is less well known that these victims included large segments of Jewish and Russian minorities residing in the Baltic states. In short, these deportations are perhaps the best known and the best documented of Soviet international crimes in the Baltic area.

The legal and social aspects of those crimes are fascinating even today. Moreover, they are important. Spawned by the infamous Nazi-Soviet Pact of 1939, these actions escaped international public attention at the conclusion of World War II. Today, they are again remembered, researched, and discussed publicly, here, in the Baltic states, and in the Soviet Union itself. To the degree that these crimes are accepted and tolerated by the Soviet society, they are among the best indicators of change, or lack of change, in the Soviet system. In many ways, these are unresolved crimes. These are crimes that need resolution before normal life can return to the Baltic states of Estonia, Latvia, and Lithuania. They need to be resolved before Russia can be at peace with itself and others.

Indeed, I am told that there is one certain way to get the full and undivided attention at Communist gatherings today. I am told that you simply have to mention in the Soviet Union, the notion of international trials with Communist party chiefs and Soviet officialdom as the defendants on the bench. Mention Nuremberg to them, and you will hear a pin drop in the room. They know what we are talking about.

II

At this point, I would like to give a more personal perspective of these crimes. It may be educational to those who may still harbor vague notions of useful suffering in the name of progress and world revolution. It may be instructive to those who simply do not have a sense of the human cost of millions and millions of lives wasted, crippled and damaged beyond repair and rehabilitation, and lives simply snuffed out.

III

Let me quote you from an April 28, 1989 letter written by the First Deputy Attorney General of the Latvian Soviet Socialist Republic and Soviet Counsellor of Justice, Third Rank to the Chairman of the Latvian Committee for Cultural Relations Abroad. Forgive me for the style which is his, not mine:

"I inform you that in line with the January 19, 1989 decree of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics 'On supplementary tasks to be done to reestablish justice with relationship to the victims of the repressions in the 1930s, 1940s, and early 1950s' the March 8, 1941 "special meeting" verdict of the Ministry of the Interior of the USSR (to deport in 1941 from the Latvian SSR Attis, son of Kriss, Kenins, born on July 28, 1874) has been revoked. The criminal case against A. Kenins has been concluded, and he has been rehabilitated."

"The criminal case of 1951 against A. Kenins was concluded on January 24, 1955 for lack of criminal evidence. In this case, too, A. Kenins has been rehabilitated."

"We'll inform you later about Ilmars, son of Attis, Kenins."

IV

Now let me tell you more about the dramatis personae involved, and the events preceding this correspondence.

On June 13, 1941, my mother sent me from Riga to my grand-father's farm in the country. It had been a tough year. My father Attis, a signer of the Latvian Independence Declaration, a poet and a lawyer, a leader of the Latvian Democratic Center Party and the Pan-Europe, and an opponent of all dictatorships, was arrested in the previous summer even before the formalities of Latvian incorporation in the Soviet Union. He had refused an appointment of the puppet government, and had organized a national slate of candidates in the 1940 elections. Much of our property was taken. My mother, Austra, spent the year translating Soviet books for Latvian use, and I was her editorial assistant and secretary. We almost made it through the school year, when word came from my father who had been exiled to Akmolinsk in the Kazakh republic.

Having survived the horrible railroad ride with the help of a fellow exile, a Jewish doctor from Pinsk, he was in good spirits. Only in passing, he estimated that this ride shortened his life by at least ten years. Toward the end of the ride he was robbed in the Tashkent (now a sister city of Seattle) open air transit prison; he was running around Akmolinsk in his blue silk pajamas. On face value, he was behaving as a vacationer in a fashionable resort. In reality, he had nothing, not even a regular place to stay.

Compared to others, especially those ripped away from their countries on June 14, 1941 he was fortunate. When others had no support systems of any kind left, he could count on his family. We could help him. With war clouds on the horizon, we scraped together what money we could. We also sent him boxes of food, clothing and medicines.

V

True to his free spirit, my father wrote to us freely, with few restraints. He wrote of the bitter life in exile, very different from the intellectually stimulating life of a 1905 revolutionary in Western Europe. We even learned about the alleged crimes he, a citizen of Latvia, had committed against the Soviet state. Among those considered serious was the organization of the National Flag Society, a support group of the Democratic Center Party. The society was, to the Soviet mind, obviously designed to lure Latvian workers away from true class loyalty they may have felt toward the Communists. Nothing was said about my father's role in the 1940 elections, his real offense.

VI

June 13, 1941 was a beautiful day. Leaving town, I rode past long lines of trucks assembled on the outskirts of the city. War transports, I thought, even though the drivers had the blue caps of the Soviet security troops. They sat silently in their trucks, not talking to anyone. I did not suspect that these drivers and trucks would be used that night to round up thousands of victims.

VII

The next week at the farm passed quickly. Stories about the deportations drifted about the countryside, leaving almost everyone concerned, puzzled, and also unaware of the massive scale and scope of these deportations. In practice, the concerns had a focus on actions individuals had to take care of families and friends, yes, even the farm animals left behind untended. The situation was aggravated by Soviet orders for horses, wagons, and workers to be sent to the Red Army for building military air bases near the Lithuanian border. New, confusing orders marked one day after another.

War came. Three miles away, an ammunition depot was blown up, knocking out two windows of the farmhouse. Retreating Soviet troops chopped down whole new apple orchards in futile attempts to camouflage their trucks. The German air force strafed them unhindered. To make the flight easier, heavy equipment was abandoned. Artillery munitions were dumped in the highway ditches. Small arms were found in roadside bushes. No defense was evident.

The routed troops were running home toward the Russian border. An added unpleasant reminder on our Latvian status came when Soviet soldiers stopped for water. They made the children drink first from the well. The Soviets knew that they were not friends or defenders. They were the enemy in our country. The last man of the routed army I saw, ran to the East. This member of the occupation army did not want to face anyone in Latvia.

VIII

A week later we learned about my brother Ilmars. A young lawyer who earned his silver medal with his thesis on the status of Canadian dominions, was thrown out of his job by the Communists. He found temporary work in the small town of Rezekne on the Russian border.

There he was caught as a suspected guerrilla by Soviet security. No, he was not shot. He was tortured to death, slowly, by a medical doctor of the security forces. Partly skinned, he was found killed with a spike driven in his skull.

His son Jamis, now living in Vancouver, never knew his father. He was born a few months later. Without finishing high school, his sister, Maija, went to work early to help support her brother and her mother, Irma. Today, Maija is a self-taught actuarial consultant to the insurance industry in Toronto. Others were not so lucky.

IX

Eventually, my father was brought to Moscow to assist the war effort against Hitler's Germany. He returned to Riga in the fall of 1944, to find three of his sons gone. A fourth son, Margers, the oldest, an American army veteran of World War I, was rescued from a Soviet screening camp, but did not survive the fall of 1945. Given the opportunity, my father worked to salvage what he could of the Latvian teacher training tradition, and raised a great granddaughter still in Riga. I am glad to tell you that Gunta is now teaching management at the University of Latvia. Raised by my father, she is a true sister to me.

X

My parents were arrested in 1951, and deported to Kazachstan. They were released from that exile after Stalin's death, and returned to Riga. Although he was a senior researcher at the Latvian Academy of Sciences, my father's public life was severely restricted and the publication of his work

very limited. He died in 1960, concluding a long life devoted to his native country and to the best of democratic traditions anywhere. My mother finally came to visit us after she was turned down for an exit visa five times. When she came, she brought with her my father's last book of poetry. That book, had been turned down many times in Latvia. It was published here.

XI

Returning to the letter from the Soviet Attorney General's Office, I offer you some comments:

Although my father was arrested in 1940 by authorities of a nominally independent Latvia, he was sentenced for no crime. He was simply removed from Latvian society after a special meeting convened for this purpose by the Soviet Ministry of Interior. The letter indirectly confirms what was rumored for many years. He was not released, he was paroled during the war. He was used; he was never forgiven. He was not rehabilitated in the 1940s or in the 1950s. He was not rehabilitated in the 1960s or in the 1970s. He was not rehabilitated by the Soviet Ministry of Interior until 1989. The reason for this sudden generosity was the refusal by my brother Talivaldis, a noted Canadian composer, and me to work with any agency of the Soviet Latvian authorities or to accept any recognition in Riga for our work and accomplishments in the absence of major policy changes.

My father's alleged crime in 1951 was that of spreading Western ideas and propaganda. He was in fact reading, translating, and discussing the work of Verlaine, the French poet. After 1955, and his rehabilitation for the crime of reading French poetry, this work was published in Latvia. My mother's only crime was being my father's wife.

The death of my brother Ilmars by the hands of a Soviet torturer was never clarified. The Communist Party of the Soviet Union, the Soviet Ministry of Interior, and its Riga representative, the Attorney General of the Latvian Soviet Socialist Republic, cannot bring themselves to make any public statements about it. They do, of course, have all of the information about it. I really do not expect them to regret anything. Are they capable of it? I expect them to try to cling to what power they have left. But I also expect that memorials will be built to Ilmars and other victims of Communism in the Baltic states, and even in Russia.

It is not a Baltic ethnic issue. It is a profound, major international moral problem which goes beyond nationalistic concerns. It is not surprising that the prime mover for this change in Riga is an ethnic Russian, my classmate Igor. Igor also presides over the Latvian society of Soviet camp survivors and other victims.

XII

What can we learn from these brief episodes of the incomplete chronicles of one Latvian family? A few thoughts come to mind:

1. The crimes of the Communist Party and Soviet authorities are beyond modern comparisons. They are beyond any real remedy or correction. There are not enough people living in the Baltic states and in the Soviet Union to carry such burdens of restitution. The Russian people are victims themselves. They have our deepest sympathy. They also have our encouragement in their efforts to expand and to continue the changes they have undertaken by changing the leadership in Russia.

2. The present rulers of the Soviet Union have yet to own up to the full measure of crimes committed by the Communist Party and the Soviet government. They may not be able to gain the confidence of their own people or to win respect in the world as long as this position is maintained. To clear their own individual and collective consciences, they should begin by admitting the criminality of their heritage.

3. For the Baltic states, I wish them more Western support, from you, and me, and our neighbors. Although our Western friends have done much for us in keeping the flame of Baltic aspirations to freedom alive, they also have done much to prolong the life of an intolerable system. They too, owe the victims of Communism, including those of the Baltic states.

4. For the surviving victims we can pledge our support and determination to tell and document their story in both the Baltic states and in the West. Humanitarian aid served from the West should include help to these victims to achieve a small measure of equity.

5. For those no longer alive we pledge ourselves to work untiringly for the independence of Estonia, Latvia, and Lithuania. Independency may yet be very costly to the Baltic nations. But without independence there will be no Baltic nations, and life in the Baltic states will be even more costly in human lives and more miserable in Russia. Freedom must come!•

TRIBUTE TO MORT RYWECK

• Mr. DURENBERGER. Mr. President, today, I rise to pay my respects to an individual who has made a real difference in our community in the Twin Cities, to Minnesota, and to the Nation. Mort Ryweck who has been a vocal and effective force in combating anti-Semitism, is retiring as executive director of the Jewish Community Council Anti-Defamation League of Minnesota and the Dakotas. Unlike the forces of intolerance he has fought against, he has been a man of love and patience.

It has been said that all that is necessary for the triumph of evil is for good men and women to do nothing. Well, Mr. President, Mort Ryweck did his part, and he has challenged others to do theirs.

This man has been a tireless fighter for the truth that all of us are indeed created equal. "The work we're in is a never-ending job," he said recently.

I'm even more aware of that now than when I began. * * * You can never really take a full vacation from it. You can't think that because you've made advancements that people have become immune to the appeals of the bigots.

Mort Ryweck has had many accomplishments and experiences throughout his career. He graduated from New York University with a degree in journalism. In 1958, he and four others in the U.S. peace movement, led by civil rights pioneer Bayard Rustin, spent 3 weeks on the Finnish-Soviet border trying to get into the Soviet Union to protest nuclear tests. He first arrived in the Midwest when he worked for the Anti-Defamation League in Milwaukee, WI.

Today, he is a member and has been involved with the Minnesota Interreligious Committee, the Joint Religious Legislative Coalition, and the Minneapolis NAACP, and is coordinator of the Minnesota Coalition to Celebrate Our Differences, a sponsor of the World of Difference prejudice-reduction, and the National Workshop on Christian-Jewish Relations. The World of Difference project alone in Minnesota has trained more than 3,600 teachers and reached hundreds of thousands through TV and newspaper features in 1 year. Other projects include the rescue of Ethiopia's Jews, the continuing exodus of Soviet Jews, and in Minnesota, a way for reporting hate crimes and increasing penalties.

In the Minnesota Jewish Life in June 1988, Mort makes the following observation about the progress on the fight against anti-Semitism:

> The growing courage of Jews to stand up for their rights coupled with their solicitation of help from Christians and the secular community, have helped bring Jews to a more integrated place in society today, but we should never minimize the potential for increased anti-Semitic actions.

Mort leaves the Anti-Defamation League of Minnesota and the Dakotas in its 78th year, but I am sure that he will never retire from being a spokesperson for the dignity of all people. As long as racism exists to be conquered, Mort will continue the fight.

Having known Mort for many years, I can safely say that the best way we can honor him for his years of service is to take up the cause of advancing human dignity and respect in our own daily lives.•

A TRIBUTE TO GERALDINE DEFANT

• Mr. LEVIN. Mr. President, today marks the formal end of an era in Marquette, MI. The city and county of Marquette have proclaimed it Geraldine DeFant Day.

Geri DeFant has been a driving force for social justice for decades. She first arrived in Marquette as a representative of the International Ladies Garment Workers Union. Her actions on behalf of the employees of the Gossard Co. in Ishpeming helped provide a better standard of living for those workers and led to improved working conditions in the plant.

Through the years, Geri helped organize a co-op nursery school, a program to help people affected by probate court actions, was active in the passage of school bond issues and a variety of other volunteer activities, all the while raising three children. She also opened an office for Senator Phil Hart to serve constituents in northern Michigan. It was the first time a Michigan Senator had an office outside a metropolitan area.

Long active in women's rights issues, Geri helped organize the Marquette Women's Center and served with distinction on the Michigan Women's Commission. Now 74 years young, she is still active with the Women's Center and the multitude of services provided by that institution.

Geri DeFant did most of these good deeds outside the limelight. She is not a shrinking violet, by any means, but she did not seek the spotlight. That all changed in 1982 when she made the decision which has impacted the lives of every resident of Marquette County. She ran for, and was elected to, the county commission.

Geri served 8 years on the board as a tireless public servant. Her efforts led to the creation of a department of economic development in the county, significant improvements to the airport and the expansion of other vital services during a time of fiscal restraint.

Too often, Mr. Presdient, we wait until a person is gone before recognizing their accomplishments. I am pleased to say that the citizens of Marquette County have not done so in this case. A new county human services building will be dedicated tomorrow and named the Geraldine DeFant Bldg. Friends from around Michigan will gather with Geri and her family and toast her accomplishments.

Mr. President, I add my salute to Geri DeFant, a person who has made a positive difference.●

NATIONAL LITERACY DAY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 259 regarding National Literacy Day now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 259) designating July 2, 1991, as "National Literacy Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LAUTENBERG. Mr. President, I am pleased to rise in support of House Joint Resolution 259, a joint resolution to designate July 2, 1991, as "National Literacy Day". This is the companion to Senate Joint Resolution 146, which is cosponsored by 52 of my colleagues. It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the services to help them escape illiteracy.

In the book "Illiterate America" by Jonathan Kozol, the author describes the growing crisis of illiteracy in America. In this country it is often said that we live in the information age. Yet for many Americans, information is inaccessible. Over 30 million American adults cannot read. An additional 42 million read below the level needed to function successfully. The American Library Association estimates the cost of illiteracy is $225 billion, although, in truth, no value can be put on the devastation of illiteracy.

The cost includes the lifetime earnings that will not be realized by men and women who cannot get and hold jobs requiring any reading skills. The cost includes child welfare expenditures for the children of adults who lack the skills to get jobs. The cost includes prison maintenance for the inmates whose imprisonment can be linked to their illiteracy. The cost includes on-the-job accidents and damage to equipment caused by the inability of workers to read and understand instructions for the operation of machines.

And the human cost is even higher. The daily activities that we take for granted—reading the newspaper, reading a menu, reading a street or subway map, reading a note from a child's teacher—become a nightmare for illiterate people. They devise remarkable strategies of evasion and coping. The creativity that goes into hiding the inability to read is a terrible waste and a tragic commentary on the losses illiterate people suffer.

It is vital to call attention to the problem of illiteracy. Our society must begin to understand the severity of this problem and its detrimental effects. Perhaps even more essential is the need to reach the people who need help in overcoming their illiteracy and to make them aware of the services that are available.

I urge my colleagues to support this joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 259) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING SENATE OPPOSITION TO THE USE OF FORCE IN YUGOSLAVIA

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 147, submitted earlier today by Senator DOLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 147) to express Senate opposition to the use of force to resolve political differences in Yugoslavia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 147) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 147

Whereas since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991, the democratic republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yogoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas in its June 26 statement on Yugoslavia, the U.S. Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia"; Now, therefore, be it

Resolved, That—

(a) the Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) the Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement;

(c) the Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR FRIDAY

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, June 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be rseserved for their use later in the day; and that the Senate then resume consideration of S. 1241, the crime bill.

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

RECESS UNTIL 10 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as under the previous order until 10 a.m., Friday, June 28.

There being no objection, the Senate, at 1:24 a.m., recessed until Friday, June 28, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1991:

THE JUDICIARY

REBECCA F. DOHERTY, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

MICHAEL R. HOGAN, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

JAMES T. TRIMBLE, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE EARL E. VERON, RETIRED.

SHELBY HIGHSMITH, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE THOMAS E. SCOTT, RESIGNED.

DENIS R. HURLEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

PAUL R. MATIA, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

HAROLD R. DEMOSS, JR., OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT VICE JERRE S. WILLIAMS, RETIRED.

BARBARA A. CAULFIELD, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE WILLIAM W. SCHWARZER, RETIRED.

NATIONAL MEDIATION BOARD

PATRICK J. CLEARY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1994. (REAPPOINTMENT)

DEPARTMENT OF LABOR

CARI M. DOMINGUEZ, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE WILLIAM C. BROOKS, RESIGNED.

NANCY RISQUE ROHRBACH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE JENNIFER LYNN DORN, RESIGNED.

DEPARTMENT OF THE TREASURY

OLIN L. WETHINGTON, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE CHARLES H. DALLARA, RESIGNED.

DEPARTMENT OF STATE

ROBERT MICHAEL KIMMITT, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION:

To be Chairman of the Joint Chiefs of Staff

To be general

GEN. COLIN L. POWELL [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. H. NORMAN SCHWARZKOPF [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

LT. GEN. WALTER E. BOOMER [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. HENCY C. STACKPOLE III [redacted] USMC.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be colonel

BETTY J. ANDREWS [redacted]
ROSEMARY BAUER [redacted]
CLAUDIA S. BEADLE [redacted]
JOANNE M. BLACK [redacted]
DOREEN E. BROCK [redacted]
ANNA A. CALDWELL [redacted]
MINNIE L. CAMPBELL [redacted]
PATRICIA A. DAMLER [redacted]
JOELLEN DEBERG [redacted]
REBECCA A. DYLLA [redacted]
WAYNE E. ELLIS [redacted]
MARILYN C. A. FLORO [redacted]
MARY E. FORKNER [redacted]
THERESE R. GRENCHIK [redacted]
JANIE M. KELLEY [redacted]
KAREN D. KIMMEL [redacted]
GLORIA K. LAMOUREUX [redacted]
JANICE L. MARCHAND [redacted]
LINDA E. MCFARLAND [redacted]
BARBARA M. MCKENNA [redacted]
SHARON C. MOYNIHAN [redacted]
CAROLYN S. PORTER [redacted]
HELEN L. RANGEL [redacted]
KATHY J. REYNOLDS [redacted]
JANE ROE [redacted]
EMILY D. SMITH [redacted]
ROSANNE K. TOSSING [redacted]
ANDREA A. VALDEZ [redacted]
LINDA A. VANVECHTEN [redacted]
MARY C. WEGNER [redacted]
ROSLYN F. WILSON [redacted]
ALICE S. WOOD [redacted]

MEDICAL SERVICE CORPS

To be colonel

ARTHUR E. AENCHBACHER, JR [redacted]
SIDNEY BRANDLER [redacted]
NICHOLAS DIDIO, II [redacted]
ROBERT P. EDWARDS [redacted]
JAMES J. GALLMAN [redacted]
LYNN M. JONES [redacted]
PHILLIP L. MARLERT [redacted]
ROBERT H. OWENS [redacted]
LARRY J. SUTTERER [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

BARRY S. ABBOTT [redacted]
DWAYNE E. ABBOTT [redacted]
JAMES M. ABEL, JR [redacted]
ROBERTO ACOSTA [redacted]
ANTHONY J. ADAMCIK [redacted]
EMIL J. ADAMS, JR [redacted]
MICHAEL P. AEILLO [redacted]
THOMAS D. AKERS [redacted]
JERRY L. ALBRITTON [redacted]
JIMMY H. ALEXANDER [redacted]
JOHN ALFIER [redacted]
CHARLES T. ALLAN [redacted]
CRAIG R. ALLEN [redacted]
JIMMY R. ALLEN [redacted]
ANTHONY D. ALLEY [redacted]
ROBERT D. ALLISON [redacted]
CLESSON D. ALLMAN [redacted]
DENNIS A. ALMER [redacted]
JAY J. ALONIS [redacted]
GREGORY A. ALSTON [redacted]
ROBERT F. AMASON, JR [redacted]
CHARLES L. AMES [redacted]
DAVID N. ANDERSON [redacted]
WAYNE L. ANDREWS, JR [redacted]
HOWARD P. ANDRUS, JR [redacted]
DAVID A. ANHALT [redacted]
ROLAND C. ANTHONY, JR [redacted]
DANIEL G. APPEL [redacted]
THOMAS D. ARDERN [redacted]
ROBERT L. ARMOUR, JR [redacted]
WINFIELD S. ARNOTT [redacted]
JENNY L. ARTERY [redacted]
PATRICK J. ASH [redacted]
WILLIAM M. ASHFORD [redacted]
WALTER L. ATCHISON [redacted]
DANA T. ATKINS [redacted]
CALVIN S. ATKINSON, JR [redacted]
FRANK B. ATKINSON [redacted]
PAUL F. AUCLAIR [redacted]
JEFFREY S. AUSTIN [redacted]
ARTHUR E. BAER, JR [redacted]
DOUGLAS P. BAIRD [redacted]
HENRY D. BAIRD, JR [redacted]
DENNIS E. BALLEW [redacted]
CAROLYN M. BALVEN [redacted]
STRATFORD C. BANNISTER, IV [redacted]
HAROLD F. BARE, JR [redacted]
HARRY H. BARKSDALE, JR [redacted]
LARRY W. BARNETT [redacted]
JOHN D. BARROWCLOUGH [redacted]
JOHN A. BARTON [redacted]
STEPHEN F. BARZELLONE [redacted]
CARLA D. BASS [redacted]
WENDELL D. BAUMAN [redacted]
CHARLES M. BAUMANN [redacted]
RICHARD G. BEACH [redacted]
RONALD L. BEAN [redacted]
JAMES D. BEASON [redacted]
DAVID B. BEATTY [redacted]
FRANK E. BEATY [redacted]
WILLARD BEAVERS [redacted]
JOSEPH C. BEBEL [redacted]
THOMAS A. BECKETT [redacted]
PAUL A. BECKMAN [redacted]
DAVID R. BEECROFT [redacted]
VINCENT P. BEFI [redacted]
GUS BELL, JR [redacted]
OSCAR C. BELL, JR [redacted]
ERNEST K. BERAN [redacted]
WILFRED E. BERGER [redacted]
HERMAN J. BERNARDS [redacted]
SCOTT W. BERRY [redacted]
CURTIS L. BETEBENNER [redacted]
HOWARD S. BIALAS, JR [redacted]
DALE F. BIBLE [redacted]
MICHAEL H. BIEDERMANN [redacted]
GUY M. BILLARD [redacted]
FRANK G. BILOTTA [redacted]
STEVEN A. BITLER [redacted]
JERRY E. BJORNSTAD [redacted]
GREGORY D. BLACK [redacted]
STEPHEN M. BLACKBURN [redacted]
PETER J. BLAISE [redacted]
TONY L. BLAND [redacted]
JOHN D. BLANKEN [redacted]
PETER A. BLATCHLEY [redacted]
GARY L. BLEDSOE [redacted]
DAVID BLESSINGER [redacted]
JAMES A. BLISSIT, JR [redacted]
JAMES V. BLOCKWOOD [redacted]
THOMAS J. BLUME [redacted]
SAMUEL J. BOLEN [redacted]
THOMAS V. BOMA [redacted]
MICHAEL W. BOOEN [redacted]
ALBERT S. BORCHIK, III [redacted]
LOUIS H. BOTTA [redacted]
JEFFREY S. BOULWARE [redacted]
DENNIS R. BOWERS [redacted]
JOHN P. BOWLER [redacted]
THOMAS L. BOWLIN [redacted]
JOHN D. BOWMAN [redacted]
WARREN C. BOYES, JR [redacted]
PAUL D. BRADEN [redacted]
WILLIAM T. BRADEN [redacted]
WILLIAM W. BRADLEY, JR [redacted]
CARL W. BRADSHAW [redacted]
GLENN D. BRADY [redacted]
MARLENE A. BRAKE [redacted]
WILLIAM C. BRANAN, JR [redacted]
CLIFTON L. BRAY, JR [redacted]
ALVIN BREADY [redacted]
TED A. BREWER [redacted]
ROBERT B. BREWSTER [redacted]
MARK R. BRIGHTMAN [redacted]
PAUL T. BROAD [redacted]
JACK D. BROOKER [redacted]
DENNIS D. BROWN [redacted]
HENRY C. BROWN [redacted]
JEFFREY S. BROWN [redacted]
STEPHEN R. BROWN [redacted]
THOMAS D. BROWN, JR [redacted]
LINDA F. BROWNSAFFORD [redacted]
RAYMOND R. BRUNELLE, JR [redacted]

GARY D. BRUNNER xxx-xx-x...
JOSEPH C. BRYANT xxx-xx-x...
LARRY W. BRYANT xxx-xx-x...
PAUL G. BRYANT xxx-xx-x...
JOHN R. BUCK xxx-xx-x...
GERALD L. BUCKNER xxx-xx-x...
CHRISTOPHER J. BUDINSKY xxx-xx-x...
JANET V. BUECHLER xxx-xx-x...
RICHARD J. BUESGEN xxx-xx-x...
RAYMOND T. BULL xxx-xx-x...
DAVID E. BULLOCK xxx-xx-x...
JAMES C. BUNDY xxx-xx-x...
ROBERT E. BUNNELL xxx-xx-x...
MARY T. BUNYAN xxx-xx-x...
JAMES A. BUNYARD xxx-xx-x...
ELISABETH A. BURCHLEASURE xxx-xx-x...
BRUCE E. BURDA xxx-xx-x...
STEPHEN L. BURKE xxx-xx-x...
TED S. BURKE xxx-xx-x...
BOYCE B. BURLEY, III xxx-xx-x...
JAMES R. BURLING, JR xxx-xx-xx...
HARRY A. BURNS xxx-xx-x...
KEVIN P. BURNS xxx-xx-x...
RAOUL J. BURON, JR xxx-xx-x...
JAMES B. BUSHMAN xxx-xx-x...
PAUL E. BUTALLA, JR xxx-xx-x...
RICHARD S. BUTLER xxx-xx-x...
BRANDON A. BUTTRICK xxx-xx-x...
RONALD L. BUTTS xxx-xx-x...
ROBERT J. BYARD xxx-xx-x...
MICHAEL B. BYERS xxx-xx-x...
TERRENCE L. BYERS xxx-xx-x...
JOHN D. CAMERON xxx-xx-x...
JAMES D. CAMPBELL xxx-xx-x...
JOHN A. CAMPBELL xxx-xx-x...
FRANCIS M. CAMPEGGIO, JR xxx-xx-x...
MARTIN J. CANNAN xxx-xx-x...
RICHARD W. CANNATA xxx-xx-x...
JAMES R. CANNON xxx-xx-x...
JAMES D. CANTWELL xxx-xx-x...
MICHAEL T. CANTWELL xxx-xx-x...
STEVEN R. CAPENOS xxx-xx-x...
VIRGINIA L. CARDEN xxx-xx-x...
DAVID C. CARLSON xxx-xx-x...
CHARLES G. CARPENTER xxx-xx-x...
NATHANIEL L. CARR xxx-xx-x...
STEPHEN R. CARR xxx-xx-x...
PAMELA D. CARTER xxx-xx-x...
ROBERT A. CARTER xxx-xx-x...
FREDERIC T. CASE xxx-xx-x...
WALTER M. CASKEY, JR xxx-xx-x...
JOHN R. CASS, JR xxx-xx-x...
RONALD G. CATE xxx-xx-x...
CLYDE C. CAUFIELD xxx-xx-x...
BRUCE E. CAUGHMAN xxx-xx-x...
BERNARD C. W. CHANG xxx-xx-x...
RICHARD M. CHAPIN xxx-xx-x...
DIANNE E. CHAPLIN xxx-xx-x...
RANDALL W. CHAPMAN xxx-xx-x...
MATTHEW J. CHAPPELL, II xxx-xx-x...
JOHN E. CHARLTON xxx-xx-x...
CHARLES R. CHAVEZ xxx-xx-x...
ROBERT J. CHEESEMAN xxx-xx-x...
EDD P. CHENOWETH xxx-xx-x...
CARLOS O. CHERRY xxx-xx-x...
ALLAN D. CHILDERS xxx-xx-x...
CRAIG T. CHRISTENSEN xxx-xx-x...
LANCE D. CHRISTIAN xxx-xx-x...
WILLIAM H. CHRISTIAN, JR xxx-xx-x...
KURT A. CICHOWSKI xxx-xx-x...
KENNETH A. CINAL xxx-xx-x...
GARY F. CLARK xxx-xx-x...
JAY L. CLARK xxx-xx-x...
LLOYD N. CLARK xxx-xx-x...
ROY A. CLELAND xxx-xx-x...
ROBERT M. CLOWERS xxx-xx-x...
PATRICK M. CLUNE xxx-xx-x...
MARK A. CLUSKEY xxx-xx-x...
ALLEN D. COATES xxx-xx-x...
DOUGLAS R. COCHRAN xxx-xx-x...
ROBERT A. COE xxx-xx-x...
WILLIAM E. COFFER xxx-xx-x...
LEE J. COLBURN xxx-xx-x...
RICHARD W. COLE xxx-xx-x...
DONALD C. COLEMAN xxx-xx-x...
RONALD COLEMAN xxx-xx-x...
RICHARD J. COLLIANDER xxx-xx-x...
JOHN D. COLLIER xxx-xx-x...
JOHN E. COLLIER xxx-xx-x...
DANIEL L. COLLINS xxx-xx-x...
DONAL J. COLLINS xxx-xx-x...
KELLY B. COLLINS xxx-xx-x...
STANLEY J. COLLINS xxx-xx-x...
WILLIAM M. COLLINS xxx-xx-x...
WILLIE F. COLLINS xxx-xx-x...
CHRIS R. COMMEFORD xxx-xx-x...
PAUL D. CONDIT xxx-xx-x...
DENNIS A. CONNAUGHTON xxx-xx-x...
WILLIAM M. CONNER xxx-xx-x...
GARY S. CONNOR xxx-xx-x...
BRUCE A. CONWAY xxx-xx-x...
JUDITH E. COOK xxx-xx-x...
HAL J. COOKE xxx-xx-x...
DAVID F. COOMBS xxx-xx-x...
JOHN M. COPELAND xxx-xx-x...
ROGER T. CORBIN xxx-xx-x...
CHARLES E. COSTA xxx-xx-x...
MICHAEL E. COSTELLO xxx-xx-x...
CHARLES A. COTTER, JR xxx-xx-x...
STEPHEN A. COULOMBE xxx-xx-x...
JAMES S. COURTOY xxx-xx-x...
JOHN O. COWAN xxx-xx-x...

SUZANNE L. COWAN xxx-xx-x...
MARVIN D. COX xxx-xx-x...
MURRAY D. COX xxx-xx-x...
THOMAS P. COYNE, JR xxx-xx-x...
WILLIAM M. CRABBE, III xxx-xx-x...
JOSEPH B. CRAWFORD xxx-xx-x...
DANNY J. CREAGAN xxx-xx-x...
DELBERT G. CREASY xxx-xx-x...
LOUIS C. CROOKS xxx-xx-x...
MAUREEN A. CROOKS xxx-xx-x...
LEE T. CROSS xxx-xx-x...
JOHN S. CROWLEY, JR xxx-xx-x...
CHARLES G. CRUPPER, JR xxx-xx-xx...
GREGORY C. CRYSTAL xxx-xx-x...
JOHN R. CULCLASURE xxx-xx-x...
JOHN C. CULPEPPER xxx-xx-x...
DONALD L. CUNNINGHAM xxx-xx-x...
PHILIP L. CUNNINGHAM xxx-xx-x...
EUGENE M. CURRAN xxx-xx-x...
PAUL W. CURTIS xxx-xx-x...
CHARLES CZARNIECKI xxx-xx-x...
KENNETH W. DAHL xxx-xx-x...
GREGORY C. DAHLGREN xxx-xx-x...
JOHN M. DAILEY xxx-xx-x...
JEFFREY T. DAILY xxx-xx-xx...
MICHAEL C. DAMRON xxx-xx-x...
THOMAS L. DARNER xxx-xx-x...
THOMAS M. DASHIELL xxx-xx-x...
JOEL D. DAVID xxx-xx-x...
GERALD D. DAVIDSON xxx-xx-x...
WALTER G. DAVIDSON xxx-xx-x...
BRADLEY S. DAVIS xxx-xx-x...
JAMES S. DAVIS xxx-xx-x...
JEFFREY C. DAVIS xxx-xx-xx...
MICHAEL K. DAVIS xxx-xx-x...
NANCY F. P. DAVIS xxx-xx-x...
RANDALL M. DAVIS xxx-xx-x...
WILLIAM V. DAVIS xxx-xx-x...
GREGORY D. DAWSON xxx-xx-x...
JAMES L. DAY xxx-xx-x...
RICHARD L. DAY xxx-xx-x...
MICHAEL K. DEACY xxx-xx-x...
EDWARD W. DEBUSK xxx-xx-x...
ARTHUR G. DECELLES xxx-xx-x...
JAMES H. DEGARMO xxx-xx-x...
MICHAEL E. DEHART xxx-xx-x...
JOSE A. DELGADO xxx-xx-x...
WARREN B. DELKER xxx-xx-x...
CHARLES C. DEMOISY xxx-xx-x...
WAYNE M. DENESIK xxx-xx-x...
MICHAEL J. DENNIS xxx-xx-x...
WILLIAM A. DENTON xxx-xx-x...
PAUL A. DETTMER xxx-xx-x...
HARRY J. DEVAULT xxx-xx-x...
FRANK R. DEVINCENZO xxx-xx-x...
FRANTZ DEWILLIS xxx-xx-x...
GARY W. DILK xxx-xx-x...
BENJAMIN L. DILLA xxx-xx-x...
SUSAN J. DILLARD xxx-xx-x...
DANIEL R. DINKINS, JR xxx-xx-x...
JOSEPH P. DIROSARIO xxx-xx-xx...
SHARON R. DISLER xxx-xx-x...
DAVID M. A. DOCKHAM, II xxx-xx-x...
DALE E. DODD xxx-xx-x...
JONATHAN E. DOELLE xxx-xx-x...
RONALD S. DOEPPNER xxx-xx-x...
ANGELA D. DOFFONEY xxx-xx-x...
TOMMY E. DOMINEY xxx-xx-x...
ROY G. DONAHUE, JR xxx-xx-x...
MARK S. DONNELLY xxx-xx-x...
KENNETH E. DONOUGH, xxx-xx-x...
JAMES T. DONOVAN xxx-xx-x...
KEVIN F. DONOVAN xxx-xx-x...
ROBERT D. DORSEY xxx-xx-x...
WILLIAM K. DOTY, JR xxx-xx-x...
ARTHUR G. DOUGLAS xxx-xx-x...
DON R. DOUGLAS xxx-xx-x...
JAMES L. DOUGLAS, JR xxx-xx-x...
HERBERT M. DOVE, JR xxx-xx-x...
ROBERT J. DOWLING xxx-xx-x...
BRIAN W. DOYLE xxx-xx-x...
WILLIAM E. DRAKE xxx-xx-x...
FRANK E. DRESSEL xxx-xx-x...
WILLY H. DROW xxx-xx-x...
RICHARD F. DUHACHEK xxx-xx-x...
GAIL R. DUKE xxx-xx-x...
LARRY O. DUNAGAN xxx-xx-x...
MICHAEL L. DUNLAP xxx-xx-x...
MARTIN D. DUTILLY xxx-xx-x...
DAVID D. DYCHE xxx-xx-x...
DANIEL R. EAGLE xxx-xx-x...
JOHN L. EASLEY xxx-xx-x...
FRED R. EASTERLIN xxx-xx-x...
ROBERT A. EATON xxx-xx-x...
BRADLEY C. EBAUGH xxx-xx-x...
RAYMOND E. EBBS xxx-xx-x...
JEFFREY W. EBERHART xxx-xx-xx...
JOHN EBRON, JR xxx-xx-x...
STEVEN R. EDDY xxx-xx-x...
SAMUEL G. EDGAR, III xxx-xx-x...
JOHN R. EDINGER xxx-xx-x...
ROGER D. EDWARDS xxx-xx-x...
JOSEPH M. EHMER xxx-xx-x...
DAVID J. EICHHORN xxx-xx-x...
DAVID W. EIDSAUNE xxx-xx-x...
JAMES K. EKEN xxx-xx-x...
RICHARD K. ELDARD xxx-xx-x...
DANIEL E. ELDRIDGE xxx-xx-x...
JACK H. ELDRIDGE xxx-xx-x...
GUS G. ELLIOTT, JR xxx-xx-x...
DONALD S. ELLIS xxx-xx-x...
DONNIE R. ELLIS xxx-xx-x...

LARRY D. ELLIS xxx-xx-x...
STEVEN E. ELSE xxx-xx-x...
ELIZABETH A. ENAS xxx-xx-x...
THOMAS D. ENTWISTLE xxx-xx-x...
STEPHEN C. ENZWEILER xxx-xx-x...
JOHN W. ERIKSEN xxx-xx-x...
CLAUDE M. ERVING, JR xxx-xx-x...
ROBERT D. ESKRIDGE xxx-xx-x...
JERRY D. EUDY xxx-xx-x...
RICHARD A. EVANS xxx-xx-x...
RICHARD H. EVANS xxx-xx-x...
MICHAEL E. EVERSON xxx-xx-x...
JAMES W. EWING xxx-xx-x...
RICHARD L. EYESTONE xxx-xx-x...
RICHARD A. EZZELL xxx-xx-x...
DANIEL L. FALVEY xxx-xx-x...
MARK E. FANTASIA xxx-xx-x...
JOHN S. FARNHAM xxx-xx-x...
HARVEY R. FARR xxx-xx-x...
STEPHEN F. FARRY, JR xxx-xx-x...
KENNETH V. FEASTER xxx-xx-x...
JAMES D. FELS xxx-xx-x...
MICHAEL P. FENNESSY xxx-xx-x...
HAROLD FIELDS, JR xxx-xx-x...
JAMES C. FILBERT xxx-xx-xx...
MICHAEL R. FILLER xxx-xx-x...
ALVA L. FINCHER xxx-xx-x...
TIMOTHY M. FINK xxx-xx-x...
THOMAS P. FINN xxx-xx-x...
THOMAS P. FINNEGAN xxx-xx-x...
JAMES A. FISHER xxx-xx-xx...
MICHAEL S. FITZ xxx-xx-x...
KEVIN P. FLATT xxx-xx-x...
DAVID L. FLEMING xxx-xx-x...
FRANK C. FLINN, II xxx-xx-x...
LEO FLORICK xxx-xx-x...
ALFRED K. FLOWERS xxx-xx-x...
WOODROW T. T. FLOWERS xxx-xx-x...
MARY F. FLYNN xxx-xx-x...
JERALD L. FOLKERTS xxx-xx-xx...
MICHAEL R. FOOR xxx-xx-x...
JAMES P. FOREMAN xxx-xx-x...
PATRICIA M. FORNES xxx-xx-x...
FRANK L. FORSYTH xxx-xx-x...
IRA W. FORTENBERRY xxx-xx-x...
PETER C. FORTESCUE, JR xxx-xx-xx...
ROY M. FOSTER xxx-xx-x...
GUY C. FOWL xxx-xx-x...
NEAL I. FOX xxx-xx-x...
STEPHEN R. FRALEY xxx-xx-xx...
TERRY A. FRANKS xxx-xx-x...
WALTER FRANT xxx-xx-x...
JOHN H. FRAVEL xxx-xx-x...
KENNETH M. FREEMAN xxx-xx-x...
HARRISON C. FREER xxx-xx-x...
JEAN T. FREITAS xxx-xx-xx...
GREGORY B. FRICK xxx-xx-x...
MAE E. FRIEL xxx-xx-x...
BRUCE H. FRITZSCHE xxx-xx-x...
MARK W. FRY xxx-xx-x...
THOMAS C. FUGATE, SR xxx-xx-x...
MYRNA L. FULLER xxx-xx-x...
WAYNE L. FULLER xxx-xx-x...
STEVEN L. FUZZELL xxx-xx-xx...
MYKEL D. GABLE xxx-xx-x...
KARL F. GABRYS, JR xxx-xx-x...
ROBERT N. GAMACHE xxx-xx-x...
BRUCE D. GAMBLE xxx-xx-x...
ROBERT L. GAMBRELL, JR xxx-xx-xx...
ALFREDO GARCIA, JR xxx-xx-x...
PATRICK J. GARCIA xxx-xx-x...
PATRICIA D. GARLAND xxx-xx-x...
HARRY J. GARNAND, III xxx-xx-x...
BRUCE M. GARNER xxx-xx-x...
RICHARD B. GARNER xxx-xx-x...
HUGH H. GARRETT xxx-xx-x...
RAY T. GARZA xxx-xx-x...
CHRISTOPHER J. GASTON xxx-xx-x...
ADRIEN L. GAUDREAU, JR xxx-xx-x...
JOHN F. GAUGHAN, II xxx-xx-x...
ROBERT D. GEDDES xxx-xx-x...
CHARLES O. GENSLER xxx-xx-x...
GILES D. GENTRY, JR xxx-xx-xx...
PETER W. GEURTZ xxx-xx-x...
KRIS D. GIANAKOS xxx-xx-x...
RICHARD M. GIBALDI xxx-xx-x...
CURTIS R. GIBBS xxx-xx-x...
JAMES H. GIBBS xxx-xx-x...
DEBORAH S. GIBSON xxx-xx-x...
FREDERICK C. GILBERT xxx-xx-x...
SILVANUS T. GILBERT, III xxx-xx-x...
TOMMIE L. GILLISPIE xxx-xx-xx...
ANDREW G. GILMORE xxx-xx-x...
ROBERT W. GINN xxx-xx-x...
WILLIE J. GLADDEN xxx-xx-x...
LEE GLASER xxx-xx-x...
MICHAEL R. GLASPY xxx-xx-x...
EUGENE GLOVER xxx-xx-x...
EDWARD O. GOEHEL, JR xxx-xx-x...
RAYMOND D. GOMES xxx-xx-x...
ADRIAN GOMEZ xxx-xx-x...
RAFAEL GONZALEZ xxx-xx-x...
DALE L. GOODELL xxx-xx-x...
JOHN C. GOODMAN xxx-xx-x...
CRAIG A. GORDON xxx-xx-x...
HUGH L. GORDON xxx-xx-x...
MICHAEL V. GOYDEN xxx-xx-x...
LANCE C. GRACE xxx-xx-x...
KEVIN M. GRADY xxx-xx-x...
KEMIT S. GRAFTON xxx-xx-x...
DOUGLAS U. GRAHAM xxx-xx-x...
THOMAS E. GRAVES xxx-xx-x...

DAVID S. GRAY, [redacted]
HUGH G. GRAY, [redacted]
ALLEN M. GREEN, [redacted]
ANTIONETTE L. GREEN, [redacted]
MARK L. GREENWOOD, [redacted]
SANDRA A. GREGORY, [redacted]
JAMES W. GREIG, II, [redacted]
PATRICK A. GRIECO, [redacted]
CALVIN E. GRIFFITHS, [redacted]
STEVEN G. GROATHOUSE, [redacted]
PHILLIP W. GRONSETH, [redacted]
JACK L. GRUBB, [redacted]
REYES GUERRA, [redacted]
DANNY W. GUGELMAN, [redacted]
BRUCE R. GUNN, [redacted]
RODNEY B. GUNTHER, [redacted]
THURMAN R. HAAS, [redacted]
MERVILLE G. HAERTER, [redacted]
DOUGLAS B. HALL, [redacted]
RICHARD M. HALL, [redacted]
MARC R. HALLADA, [redacted]
WAYNE F. HALLGREN, [redacted]
IRVING L. HALTER, JR., [redacted]
ORRIS N. HAMBLETON, [redacted]
JAMES R. HAMILTON, [redacted]
MICHAEL F. HAMMERLE, [redacted]
GARY W. HAMMOND, [redacted]
DAN W. HANIFEN, [redacted]
GARY L. HANKINS, [redacted]
DALE R. HANNER, [redacted]
WILLIAM E. HANSON, [redacted]
DONALD L. HARGARTEN, [redacted]
JULIUS L. HARGROVE, [redacted]
JAMES K. HARKINS, JR., [redacted]
STANLEY G. HARMON, [redacted]
MICHAEL C. HARRIS, [redacted]
STEPHEN H. HARRIS, [redacted]
WILLIAM L. HARRIS, III, [redacted]
SCOTT C. HARRISON, [redacted]
RALPH S. HARTMAN, [redacted]
CLYDE A. HARTSHORN, JR., [redacted]
GREGG E. HARTZ, [redacted]
ROBERT H. HASELOFF, [redacted]
KEITH E. HAUGO, [redacted]
LARRY H. HAULMAN, [redacted]
MICHAEL L. HAUSER, [redacted]
MICHAEL G. HAZENFIELD, [redacted]
CHARLES R. HEALD, [redacted]
STEPHEN W. HECK, JR., [redacted]
ROBERT A. HEINLEIN, [redacted]
WILLIAM G. HEISEL, [redacted]
DOUGLAS A. HENLEY, [redacted]
DONALD W. HENNEY, III, [redacted]
JOHN R. HENNINGER, III, [redacted]
RICHARD W. HENRY, [redacted]
DAVID R. HENSLEY, [redacted]
JOHN L. HENSLEY, [redacted]
SAM W. HENSON, [redacted]
SCOTT B. HENTE, [redacted]
DOUGLAS D. HERBERT, [redacted]
GARY D. HERD, [redacted]
EDWARD L. HERFORD, [redacted]
DAVID W. HERLONG, [redacted]
JOHN R. HESS, [redacted]
JOHN S. HEUMANN, [redacted]
ELAINE C. HEWITT, [redacted]
DARRYL H. HICKMAN, [redacted]
ALVIN L. HICKS, [redacted]
JOHN R. HIGDON, [redacted]
TED A. HILBUN, [redacted]
BENJAMIN G. HILBURN, JR., [redacted]
DOUGLAS R. HILL, [redacted]
STANLEY L. HILL, [redacted]
MICHAEL G. HILLIARD, [redacted]
FRANKLIN J. HILLSON, [redacted]
ELLIS M. HINES, [redacted]
CHARLES A. V. HOBBS, [redacted]
MICHAEL M. HOEKMAN, [redacted]
MICHAEL J. HOELZEL, [redacted]
REX R. HOEY, [redacted]
LEE V. HOFFMAN, JR., [redacted]
WILLIAM L. HOFFMAN, [redacted]
JOHN E. HOFFMASTER, [redacted]
CHARLES T. HOFFNER, [redacted]
ERIC H. HOGANSON, [redacted]
THOMAS S. HOGREFE, [redacted]
JAMES R. HOLADAY, [redacted]
EDWARD C. HOLLAND, III, [redacted]
SAMUEL J. HOLOVIAK, [redacted]
DEAN W. HOLT, [redacted]
STANLEY W. HOLTSCHNEIDER, [redacted]
MARK A. HOMRIG, [redacted]
DONALD L. HOOVER, [redacted]
BRUCE T. HOPKIN, [redacted]
HARRY A. HOPKINS, [redacted]
BILLY J. HOPPE, [redacted]
MICHAEL T. HOULTON, [redacted]
WILLIAM G. HOUSER, JR., [redacted]
FELIX B. HOWARD, [redacted]
GORDON W. HOWARD, [redacted]
PATRICK M. HOWARD, [redacted]
JOHN HUDGINS, [redacted]
ROBERT W. HUGHES, [redacted]
DAVID R. HUGUET, [redacted]
STEPHEN G. HULL, [redacted]
RODNEY L. HUNT, [redacted]
LUCY E. HURLBUT, [redacted]
BYRON D. HUSE, [redacted]
JAMES W. HUTCHINSON, [redacted]
JAMES R. HUTCHISON, [redacted]
JAMES C. HYDE, [redacted]
MICHAEL D. HYNEK, [redacted]
MICHAEL J. ILTIS, [redacted]
BILLY G. IRBY, [redacted]
DOUGLAS G. ISAACSON, [redacted]
DAN A. ISBELL, [redacted]
KENNETH D. ISBELL, [redacted]
GEORGE S. IVANCOVICH, [redacted]
ROBERT B. IVERSON, [redacted]
ERNEST L. JACKSON, [redacted]
GARY J. JACKSON, [redacted]
JIMMIE E. JACOBS, JR., [redacted]
PAUL P. JACOBS, JR., [redacted]
BRUCE R. JAEGER, [redacted]
LARRY D. JAMES, [redacted]
RANDAL K. JAMES, [redacted]
RANDALL L. JAMES, [redacted]
GORDON R. JANJEC, [redacted]
DAVID S. JANIK, [redacted]
ROY D. JARDIN, [redacted]
CRAIG L. JARVIS, [redacted]
VISHNAMPET S. JAYANTHINATHAN, [redacted]
ROBERT F. JENNINGS, [redacted]
THOMAS A. JEX, [redacted]
DANIEL L. JIMENEZ, [redacted]
DIANNE M. JINWRIGHT, [redacted]
EDWARD D. JOHNSEN, [redacted]
ALPHONSO JOHNSON, [redacted]
CEDRIC B. JOHNSON, [redacted]
DAVID J. JOHNSON, [redacted]
DOUGLAS A. JOHNSON, [redacted]
ELWOOD K. JOHNSON, JR., [redacted]
GORDON W. JOHNSON, [redacted]
JAMES S. JOHNSON, [redacted]
LINDA L. JOHNSON, [redacted]
NORMAN E. JOHNSON, [redacted]
WAYNE M. JOHNSON, [redacted]
MARK F. JOHNSTON, [redacted]
MARK B. JOLLY, [redacted]
CAROL J. JONES, [redacted]
DON R. JONES, [redacted]
DUANE A. JONES, [redacted]
DANIEL W. JORDAN, III, [redacted]
JAMES E. JORDAN, JR., [redacted]
JOSEPH W. KAHIAPO, JR., [redacted]
WAYNE H. KALLESTAD, [redacted]
JEFFREY P. KALOOSTIAN, [redacted]
ROBERT W. KARLIN, [redacted]
EDWARD L. KASL, [redacted]
MICHAEL S. KAUFHOLD, [redacted]
ARTHUR D. KAUFMAN, JR., [redacted]
KEVIN R. KAVANAUGH, [redacted]
DANIEL E. KEARNEY, [redacted]
PATRICK K. KEATING, [redacted]
DENNIS J. KEEFFER, [redacted]
RICHARD L. KELLAHAN, [redacted]
FRANCIS X. KELLEY, JR., [redacted]
JAMES D. KELLEY, [redacted]
WILLIAM R. KELLY, [redacted]
TERRILL L. KEMP, [redacted]
KEVIN G. KENKEL, [redacted]
ROBERT J. KENNEDY, [redacted]
JAMES S. KENT, [redacted]
ROYCE E. KEOWN, [redacted]
JAMES B. KEPHART, [redacted]
DARYL C. KEPPLER, [redacted]
JON R. KERN, [redacted]
KONRAD E. KERN, [redacted]
SCOTT G. KERN, [redacted]
STEPHAN G. KERNSTOCK, [redacted]
RONALD L. KESSEL, [redacted]
OLEN S. KEY, [redacted]
GARY G. KIEHLBAUGH, [redacted]
ROBERT J. KIELMAN, [redacted]
JAI K. KIM, [redacted]
CAROL D. KING, [redacted]
DAVID A. KING, [redacted]
WILLIAM R. KLABO, [redacted]
KURT J. KLINGENBERGER, [redacted]
JAMES T. KLINGER, [redacted]
BILLY K. KNIGHT, [redacted]
RICHARD A. KNISELEY, [redacted]
MARLIN A. KNOCK, [redacted]
DONALD T. KNOWLES, [redacted]
RAYMOND O. KNOX, [redacted]
BRUCE J. KNUDSON, [redacted]
THOMAS J. KOCH, [redacted]
THOMAS W. KOCH, [redacted]
THOMAS C. KOCIAN, [redacted]
MICHAEL G. KOLLER, [redacted]
WALTER KOOZIN, [redacted]
MARSHA S. KOROSE, [redacted]
PER A. KORSLUND, [redacted]
EDWARD S. KOSZYKOWSKI, [redacted]
BRUCE F. KREYCIK, [redacted]
MICHAEL C. KROTCHIE, [redacted]
MICHAEL H. KRUTHAUPT, [redacted]
JOSEPH E. KUBACKI, [redacted]
JOHN E. KUHN, [redacted]
JOSEPH C. KULASH, [redacted]
ROBERT E. KUNTZ, [redacted]
STEVEN G. KUPECZ, [redacted]
JEFFREY A. KWALLEK, [redacted]
GLENN C. KWEDER, [redacted]
MARK D. LACERENZA, [redacted]
DAVID A. LAFAVE, [redacted]
TY M. LAGERBERG, [redacted]
STEVEN E. LAMBERSON, [redacted]
ROBERT H. LAMONTAGNE, [redacted]
GREGG E. LANDOLT, [redacted]
DAVID J. LANDON, [redacted]
TERRY A. LANG, [redacted]
WILL LANGSTAFF, JR., [redacted]
STEPHEN L. LANNING, [redacted]
HORACE L. LARRY, [redacted]
RONALD S. LASSONDE, [redacted]
LAWRENCE D. LAWVER, [redacted]
JAMES W. LAYCOCK, [redacted]
STUART W. LEACH, [redacted]
CHARLES L. LECHER, [redacted]
ROGER D. LEDBETTER, [redacted]
LAWRENCE E. LEE, [redacted]
ROBERT L. LEININGER, [redacted]
MICHAEL W. LEUSCHEN, [redacted]
NADINE E. LEVINE, [redacted]
ERIC C. LEWALLEN, [redacted]
DONALD O. LEWIS, [redacted]
NEAL B. LEWIS, [redacted]
JEFFREY L. LIBAIRE, [redacted]
DAVID E. LIEBERGOTT, [redacted]
KATHRYN J. LILLETHUN, [redacted]
DOUGLAS R. LINCOLN, JR., [redacted]
LYONEL R. LINDBECK, [redacted]
BRUCE G. LINSTER, [redacted]
BARRY G. LITHERLAND, [redacted]
JOSEPH R. LITKO, [redacted]
LAURENCE J. R. LITTLE, [redacted]
HORACE C. LITTLEJOHN, JR., [redacted]
DAVID L. LOCKETT, [redacted]
DAVID C. LOEWER, [redacted]
JAMES P. LOHMAN, [redacted]
LISA B. LONG, [redacted]
TERRENCE P. LONG, [redacted]
ROY LONGSTAFFE, [redacted]
OLIVER E. LORENZ, [redacted]
JAY L. LORENZEN, [redacted]
THOMAS C. LORIMER, [redacted]
DOUGLAS L. LOVERRO, [redacted]
MICHAEL S. LUCCHESI, [redacted]
EARLE L. LUND, III, [redacted]
LLOYD E. LUTZ, JR., [redacted]
SCOTT W. LYON, [redacted]
ROBERT L. MABRY, [redacted]
MICHAEL MACHUZAK, [redacted]
JOHN D. MACKAY, [redacted]
JEROME S. MACKEN, [redacted]
GEORGE J. MAGER, [redacted]
MICHAEL T. MAHAR, [redacted]
DANIEL MAHRER, [redacted]
RANDALL S. MAINQUIST, [redacted]
LOUIS L. MALIPSEY, [redacted]
KENNETH C. MALOKOFSKY, JR., [redacted]
MICHAEL B. MALONEY, [redacted]
DONALD M. MARCO, JR., [redacted]
STEPHEN P. MARINO, [redacted]
TERRY L. MARKOVICH, [redacted]
JOSEPH P. MARKSTEINER, [redacted]
LEMUEL F. MARLOW, [redacted]
ROBERT K. MARR, JR., [redacted]
MICHAEL C. MARRO, [redacted]
RITA A. MARSHALL, [redacted]
THOMAS A. MARSHALL, [redacted]
DAVID C. MARTIN, [redacted]
DENNIS C. MARTIN, [redacted]
RAMON MARTINEZ, [redacted]
BRUCE MASON, [redacted]
RANDOLPH J. MASON, [redacted]
JOHN W. B. MASOTTI, [redacted]
CALVIN L. MASSIE, [redacted]
BOBBY GRAHAM MATHIS, [redacted]
CRAIG P. MATT, [redacted]
DENNIS M. MATTHEWS, [redacted]
KEITH E. MATTHEWS, [redacted]
MARK T. MATTHEWS, [redacted]
WILLIAM H. MAXWELL, [redacted]
JOSEPH A. MAY, [redacted]
EDWARD D. MAYFIELD, [redacted]
HUBERT N. MAYHEW, JR., [redacted]
JOHN E. MAZUROWSKI, [redacted]
LEWIS E. MCBRIDE, III, [redacted]
MICHELANGELO MCCALLISTER, [redacted]
DENNIS M. MCCARTHY, [redacted]
THOMAS W. MCCARTHY, [redacted]
WILLIAM N. MCCASLAND, [redacted]
JEFFREY A. MCCHESNEY, [redacted]
MICHAEL A. MCCLEARY, [redacted]
THOMAS M. MCCLOGHRY, [redacted]
DAVID A. MCCLURKIN, [redacted]
BARBARA J. MCCOLGAN, [redacted]
MARK D. MCCONNELL, [redacted]
MARK R. MCCONNELL, [redacted]
ROBERT S. MCDANIEL, II, [redacted]
RICHARD T. MCDONALD, [redacted]
FAYNE A. MCDOWELL, [redacted]
WILLIAM B. MCFADDEN, [redacted]
ROBERT S. MCGEE, [redacted]
WILLIAM L. MCGILL, [redacted]
LAWRENCE R. MCGIRR, III, [redacted]
FRANCIS X. MCGOVERN, [redacted]
JAMES F. MCGOVERN, JR., [redacted]
WARNER R. MCGRAW, [redacted]
KEITH A. MCGUIRE, [redacted]
RICHARD A. MCINTOSH, [redacted]
MICHAEL E. MCINTYRE, [redacted]
KENNETH F. MCKEAN, [redacted]
THOMAS N. MCKEE, [redacted]
JAMES P. MCKENNA, [redacted]
DANIEL W. MCKENZIE, [redacted]
DAVID M. MCLAUGHLIN, [redacted]
ROBERT H. MCMAHON, [redacted]
RALPH R. MCNALLY, [redacted]
STEPHEN J. MCNAMARA, [redacted]
MICHAEL T. MCNIFF, [redacted]
MICHAEL J. MCPHAIL, [redacted]
CRAIG R. MCPHERSON, [redacted]
ROBERT A. MCREYNOLDS, JR., [redacted]

MICHAEL W. MCWILLIAMS xxx-xx-x...
GEORGE E. MEGGERS xxx-xx-x...
MICHAEL S. MELE xxx-xx-x...
JOHN M. MELIN xxx-xx-x...
MARLO D. MELLUM xxx-xx-x...
DOUGLAS C. MELROSE, JR xxx-xx-x...
BRUCE T. MELUSEN xxx-xx-x...
RICKY A. MENKING xxx-xx-x...
CRAIG S. MENSCHNER xxx-xx-x...
RONNE G. MERCER xxx-xx-x...
STEPHEN R. MESSINA xxx-xx-x...
CARMEN M. MEZZACAPPA xxx-xx-x...
BRIAN G. MILLBURN xxx-xx-x...
DOUGLAS L. MILLER xxx-xx-x...
EDWARD D. MILLER, JR xxx-xx-x...
JOHN G. MILLER xxx-xx-x...
KIRK B. F. MILLER xxx-xx-x...
MICHAEL M. MILLER xxx-xx-x...
RONALD W. MILLER xxx-xx-x...
EDDIE R. MIMS, JR xxx-xx-x...
RICHARD S. MITCHELL xxx-xx-x...
ALBERT U. MITCHUM, JR xxx-xx-x...
LESTER H. MIYAOKA xxx-xx-x...
DAVID L. MIZE xxx-xx-x...
DONALD L. MODEROW xxx-xx-x...
THOMAS C. MOE xxx-xx-x...
JAMES C. MOHAN xxx-xx-x...
CHARLES P. MOLZON xxx-xx-x...
LEE J. MONROE xxx-xx-x...
JAMES T. MOORE xxx-xx-x...
JOE S. MORALES xxx-xx-x...
GARY C. MORGAN xxx-xx-x...
RANDY E. MORRIS xxx-xx-x...
ROCKY S. MORRIS xxx-xx-x...
STEVEN L. MORRIS xxx-xx-x...
ROGER G. MORRISON xxx-xx-x...
DONALD R. MORSON xxx-xx-x...
MICHAEL D. MORTON xxx-xx-x...
WILLIAM E. MOSELEY xxx-xx-x...
KELLY MOSELY xxx-xx-x...
JOHN J. MOTYL, JR xxx-xx-x...
RICKEY L. MOWRER xxx-xx-x...
DAVID A. MOXON xxx-xx-x...
KENT A. MUELLER xxx-xx-x...
DAVID E. MUHLEMAN xxx-xx-x...
DENNIS J. MUHN xxx-xx-x...
MICHAEL B. MURDOCH xxx-xx-x...
RICHARD W. MURI xxx-xx-x...
JOHN F. MURPHY, JR xxx-xx-x...
TIMOTHY G. MURPHY xxx-xx-x...
WILLIAM P. MURRAY xxx-xx-x...
CRAIG W. NAAS xxx-xx-x...
DAVID T. NAKAYAMA xxx-xx-x...
DAVID L. NAQUIN xxx-xx-x...
PAUL J. NARZINSKI xxx-xx-x...
CURTIS V. NEAL xxx-xx-x...
RAYMOND A. NEALL, JR xxx-xx-x...
PAUL M. NEIHEISEL xxx-xx-x...
JOHN M. NEILL xxx-xx-x...
DOUGLAS NELSON xxx-xx-x...
GARY L. NELSON xxx-xx-x...
MARK E. NELSON xxx-xx-x...
ORVAL A. NELSON, JR xxx-xx-x...
MICHAEL G. NESTER xxx-xx-x...
JOHN A. NEUBAUER, II xxx-xx-x...
JEFFREY W. NEUBER xxx-xx-x...
IRWIN L. NEVEU, JR xxx-xx-x...
RANDALL L. NEVILLE xxx-xx-x...
KATHLEEN J. NEVIN xxx-xx-x...
DAVID A. NEWBRY xxx-xx-x...
MICHAEL J. NEWELL xxx-xx-x...
RICHARD Y. NEWTON, III xxx-xx-x...
GREGORY M. NICHOLL xxx-xx-x...
KRIS NIEDERLITZ xxx-xx-x...
CARY A. NIEHANS xxx-xx-x...
MILTON C. NIELSEN xxx-xx-x...
DAVID R. NOBLE xxx-xx-x...
CLAYTON M. NOBLES xxx-xx-x...
JONATHAN C. NOETZEL xxx-xx-x...
ANTONIO P. NOFUENTE xxx-xx-x...
RONALD J. NORMAN xxx-xx-x...
BASIL S. NORRIS, JR xxx-xx-x...
ANDREW E. NOTESTINE, II xxx-xx-x...
GEORGE A. NOYES, III xxx-xx-x...
JAMES B. NUNNALLEE xxx-xx-x...
CHARLES W. NYSTROM, JR xxx-xx-x...
MICHAEL W. OBAL xxx-xx-x...
GREGORY J. OBRIEN xxx-xx-x...
WILLIAM T. OCONNELL xxx-xx-x...
CHARLES J. OCONNOR, III xxx-xx-x...
RICK E. ODEGARD xxx-xx-x...
BRIAN R. ODELL xxx-xx-x...
FREDERIC W. OFFUTT xxx-xx-x...
DANNY R. OHNESORGE xxx-xx-x...
RICHARD P. OLEKSAK xxx-xx-x...
JOHN P. OLEKSEY, JR xxx-xx-x...
DUNCAN R. OLNEY xxx-xx-x...
KAREN L. OLSON xxx-xx-x...
ROGER T. OLSON xxx-xx-x...
CHARLES B. OLTMAN xxx-xx-x...
GEORGE T. ONEAL xxx-xx-x...
ROBERT S. OPALENIK xxx-xx-x...
WILLIAM B. OSBORNE xxx-xx-x...
MICHAEL F. OSHEA xxx-xx-x...
HANS J. OTTEN xxx-xx-x...
RICHARD C. OURAND, JR xxx-xx-x...
ALLAN D. OVERBEY xxx-xx-x...
JOHN P. OWENS xxx-xx-x...
THOMAS C. OWSKEY xxx-xx-x...
STEPHEN L. OYLER xxx-xx-x...
JOHNNY N. PAGAN xxx-xx-x...
RICHARD C. PARK xxx-xx-x...
FLORENCE E. PARKER xxx-xx-x...
THEODORE J. PARKER, JR xxx-xx-x...
JEFFREY P. PARSONS xxx-xx-x...
JOHN W. PASSEY xxx-xx-x...
JAMES C. PATCH, JR xxx-xx-x...
BRUCE L. PATERSON xxx-xx-x...
ELLEN M. PAWLIKOWSKI xxx-xx-x...
WILLIAM W. PEDEAUX xxx-xx-x...
DAVID W. PELZEL xxx-xx-x...
DELBERT W. PEMBERTON xxx-xx-x...
DAVID J. PERELLA xxx-xx-x...
RICHARD E. PERRAUT JR xxx-xx-x...
KENNETH E. PETERS xxx-xx-x...
MICHAEL S. PETERS xxx-xx-x...
MICHAEL J. PETERSON xxx-xx-x...
THOMAS L. PETERSON xxx-xx-x...
POLLY A. PEYER xxx-xx-x...
KERMIT S. PHELPS xxx-xx-x...
HERBERT N. PHILLIPS xxx-xx-x...
ROBERT D. PIERCE xxx-xx-x...
STEPHEN J. PITOTT xxx-xx-x...
GERNOT S. POMRENKE xxx-xx-x...
THOMAS D. POPP xxx-xx-x...
JAMES E. PORTER, III xxx-xx-x...
MICHAEL D. PORTER xxx-xx-x...
HUGO G. POSEY xxx-xx-x...
JOHN M. POUTIER xxx-xx-x...
JEFFREY C. PRATER xxx-xx-x...
CHARLES J. PRECOURT xxx-xx-x...
SIDNEY J. PREJEAN xxx-xx-x...
RODNEY C. PRESSLEY xxx-xx-x...
JOHN P. PRIOR xxx-xx-x...
RAFAEL PUBILLONES xxx-xx-x...
DAVID V. PULLIAM xxx-xx-x...
JAMES W. PZINSKI xxx-xx-x...
THOMAS J. QUELLY xxx-xx-x...
BARTHOLOMEW J. QUINN xxx-xx-x...
WILLIAM R. QUINN xxx-xx-x...
DANNY E. RACHEL xxx-xx-x...
WILLIAM J. RADIGAN, JR xxx-xx-x...
KATHY A. RAFFERTY xxx-xx-x...
JAMES C. RAINEY xxx-xx-x...
KURT A. RAMSTINE xxx-xx-x...
RAYMOND R. RANDALL xxx-xx-x...
WALTER J. RANDALL, JR xxx-xx-x...
STEVEN W. RAPP xxx-xx-x...
HARLAN W. RAY xxx-xx-x...
CHARLOTTE L. REA xxx-xx-x...
RODERICK D. REAY xxx-xx-x...
MICHAEL D. REDDIG xxx-xx-x...
BERNEIL L. REED xxx-xx-x...
DAWN M. REED xxx-xx-x...
EDWARD T. REED xxx-xx-x...
WILLIAM S. REED xxx-xx-x...
HAROLD L. REEM xxx-xx-x...
MICHAEL S. REESE xxx-xx-x...
ROBERT S. REESE xxx-xx-x...
WILLIAM E. REID xxx-xx-x...
JEFFREY A. REMINGTON xxx-xx-x...
JOHN A. RESEN xxx-xx-x...
JAVIER A. REYES xxx-xx-x...
JAMES C. REYNOLDS xxx-xx-x...
JOHN F. C. RHOADES, JR xxx-xx-x...
WALTER E. RHOADS xxx-xx-x...
RALPH C. RHYE xxx-xx-x...
ROY E. RICE xxx-xx-x...
RONALD P. RICHARDSON xxx-xx-x...
JOHN E. RICHEY xxx-xx-x...
LAWRENCE L. RICHTER, JR xxx-xx-x...
WAYNE L. RIDENOUR xxx-xx-x...
NORMAN R. RIEGSECKER, JR xxx-xx-x...
WILLIAM A. RILEY, JR xxx-xx-x...
TOMMY M. RISENHOOVER xxx-xx-x...
WILLIAM A. RISKI xxx-xx-x...
ANNA S. RIVERS xxx-xx-x...
JACK L. ROACH xxx-xx-x...
WILLIAM P. ROBB xxx-xx-x...
SUSAN S. ROBBINS xxx-xx-x...
KATHERINE E. ROBERTS xxx-xx-x...
RANDY D. ROBERTS xxx-xx-x...
REED L. ROBERTS xxx-xx-x...
THOMAS S. ROBERTS xxx-xx-x...
TIMOTHY K. ROBERTS xxx-xx-x...
ANDREW D. ROCHE xxx-xx-x...
ANTHONY R. ROCLEVITCH xxx-xx-x...
WILLIAM H. ROEGE xxx-xx-x...
MARIANNE R. ROGERS xxx-xx-x...
MARK B. ROGERS xxx-xx-x...
RONALD B. ROGERS xxx-xx-x...
SHELLEY S. ROGERS xxx-xx-x...
FREDERICK F. ROGGERO xxx-xx-x...
PAUL M. ROJKO xxx-xx-x...
PHILLIP M. ROMANOWICZ xxx-xx-x...
RICHARD O. ROOP xxx-xx-x...
CLYDE W. ROTHMAN xxx-xx-x...
JOHN W. ROUTH xxx-xx-x...
KATHERINE ROWE xxx-xx-x...
KENNETH W. ROY xxx-xx-x...
MICHAEL E. ROZNOVSKY xxx-xx-x...
DAVID A. RUDDOCK xxx-xx-x...
CHRISTOPHER J. RUMINSKI xxx-xx-x...
DANIEL J. RUNYAN xxx-xx-x...
WILLIAM F. RUSSELL xxx-xx-x...
MICHAEL E. RUTH xxx-xx-x...
BRIAN L. RUTT xxx-xx-x...
JEROME E. RUTT xxx-xx-x...
DONALD E. RYAN, JR xxx-xx-x...
MICHAEL Y. RYAN xxx-xx-x...
ROBERT W. RYAN xxx-xx-x...
JAMES M. RYBA xxx-xx-x...
JOSEPH RYBICKI, JR xxx-xx-x...
JAMES T. RYBURN xxx-xx-x...
JAMES S. SABLOTNY xxx-xx-x...
PHILLIP M. SABREE xxx-xx-x...
RANDY D. SADLER xxx-xx-x...
WALTER W. SAEGER, JR xxx-xx-x...
HENRY C. T. SAHUT xxx-xx-x...
ELIAS T. SALIBA xxx-xx-x...
MICHAEL D. SALISBURY xxx-xx-x...
CHARLES M. SALLEE xxx-xx-x...
ROY K. SALOMON xxx-xx-x...
ROBERT J. SAMAY xxx-xx-x...
DAVID F. SANDERS xxx-xx-x...
DAVID A. SARVER xxx-xx-x...
JAMES E. SCHAEFER, III xxx-xx-x...
PAUL G. SCHAFER xxx-xx-x...
RANDY J. SCHAVRIEN xxx-xx-x...
WALTER J. SCHELL xxx-xx-x...
EUGENE P. SCHEMPF xxx-xx-x...
JOHN C. SCHERER xxx-xx-x...
BRENDA J. SCHILINSKI xxx-xx-x...
ROGER A. SCHILL xxx-xx-x...
RICHARD SCHIRIPA xxx-xx-x...
CHARLES E. SCHMELING xxx-xx-x...
RICHARD H. SCHMIDT xxx-xx-x...
KEVEN M. SCHMIT xxx-xx-x...
ANN E. SCHMOYER xxx-xx-x...
JAMES J. SCHNAIBLE xxx-xx-x...
KENNETH F. SCHNELL xxx-xx-x...
JACK C. SCHOFIELD xxx-xx-x...
JOANNE S. SCHOONOVER xxx-xx-x...
JOHN M. SCHRIML xxx-xx-x...
GARY W. SCHROEDER xxx-xx-x...
RICHARD P. SCHULTE xxx-xx-x...
LARRY G. SCHULTZ xxx-xx-x...
MARK D. SCHULTZ xxx-xx-x...
JAMES R. SCHUMACHER xxx-xx-x...
JAMES S. SCHUMAN xxx-xx-x...
DAVID J. SCOTT xxx-xx-x...
MICHAEL J. SCOTT xxx-xx-x...
JAMES D. SCOTTER xxx-xx-x...
ROBERT J. SCULLY, JR xxx-xx-x...
DENNIS R. SEARS xxx-xx-x...
RICHARD A. SEELEY xxx-xx-x...
CYNTHIA L. SEGERSTEN xxx-xx-x...
WILLIAM W. SELAH xxx-xx-x...
GARY R. SELIN xxx-xx-x...
MARION I. SETH xxx-xx-x...
ROBERT J. SETTLE, II xxx-xx-x...
JOHN L. SEXTON xxx-xx-x...
RANDALL L. SHANAHAN xxx-xx-x...
DAVID G. SHAW xxx-xx-x...
THOMAS P. SHAW xxx-xx-x...
KEVIN A. SHEEHAN xxx-xx-x...
ERNEST A. SHEPARD, III xxx-xx-x...
JOSEPH G. SHERIDAN xxx-xx-x...
WILLIAM B. SHIELDS xxx-xx-x...
WILLIAM J. SHIREY xxx-xx-x...
STEVEN D. SHIRLEY xxx-xx-x...
DALE G. SHIVELY xxx-xx-x...
ROBERT W. SHUPING xxx-xx-x...
STANLEY P. SIEFKE xxx-xx-x...
EDWARD M. SIENKIEWICZ, JR xxx-xx-x...
MARTIN J. SIEROCKI xxx-xx-x...
MARK S. SILVER xxx-xx-x...
RONALD F. SIMPSON xxx-xx-x...
JOSEPH W. SINISCALCHI, JR xxx-xx-x...
NICHOLAS A. SIPOS xxx-xx-x...
ALBERT E. SISK xxx-xx-x...
MARK H. SKATTUM xxx-xx-x...
WILLIAM E. SKEITH, JR xxx-xx-x...
THOMAS C. SKILLMAN xxx-xx-x...
CHARLES G. SLATER xxx-xx-x...
AVERY P. SLEDGE, JR xxx-xx-x...
DENNIS R. SMITH xxx-xx-x...
EUGENE C. SMITH xxx-xx-x...
FORREST P. SMITH xxx-xx-x...
GARY E. SMITH xxx-xx-x...
JAMES B. SMITH xxx-xx-x...
JEFFREY P. SMITH xxx-xx-x...
KEVIN W. SMITH xxx-xx-x...
MARK T. SMITH xxx-xx-x...
SCOTT M. SMITH xxx-xx-x...
STEVEN J. SMITH xxx-xx-x...
ROBERT M. SMITHSON xxx-xx-x...
STEVEN T. E. SMOLEROFF xxx-xx-x...
CHARLES E. SNAVELY xxx-xx-x...
CHARLES C. SNEAD xxx-xx-x...
STANLEY A. SNEEGAS xxx-xx-x...
DONALD N. SNELGROVE xxx-xx-x...
JOHN A. SNIDER xxx-xx-x...
STEPHEN J. SNOW xxx-xx-x...
JACK M. SNYDER xxx-xx-x...
RANDALL L. SOILEAU xxx-xx-x...
MARK H. SOLHEIM xxx-xx-x...
CHRISTOPHER C. SOTO xxx-xx-x...
JOSEPH M. SOUSARIS xxx-xx-x...
CHARLES C. SPARKMAN xxx-xx-x...
KATHLEEN M. SPATOLA xxx-xx-x...
GLENN F. SPEARS xxx-xx-x...
THOMAS E. SPEER xxx-xx-x...
JAMES W. SPENCER xxx-xx-x...
LARRY O. SPENCER xxx-xx-x...
WILLIAM L. SPIVEY xxx-xx-x...
DEAN C. SPRAGGINS xxx-xx-x...
DAVID M. SPRINKLE xxx-xx-x...
SAMUEL F. SQUILLER xxx-xx-x...
ROMAIN PATRICK M. ST xxx-xx-x...
VICTOR L. STALEY, JR xxx-xx-x...
JOHN R. STAMPLEY xxx-xx-x...
CHARLES B. STANFIELD xxx-xx-x...
REBECCA J. STARBUCK xxx-xx-x...
MARK E. STEARNS xxx-xx-x...
THURMAN STEEN, JR xxx-xx-x...

FRANK C. STELLAR xxx-xx-x...
BILLY W. STEPHAN, JR. xxx-xx-x...
DAVID R. STEPHENS xxx-xx-x...
EUGENE J. STEPKO xxx-xx-x...
ROBERT A. STETTLER xxx-xx-x...
JAMES A. STEVENS xxx-xx-x...
JOHN G. STEVENS xxx-xx-x...
RICHARD A. STEVENS xxx-xx-x...
STANLEY S. STEVENS xxx-xx-x...
JOHN M. STEWARD xxx-xx-x...
RICHARD C. STEWART xxx-xx-x...
WILLIAM P. STEWART, JR. xxx-xx-xx...
THOMAS E. STICKFORD xxx-xx-x...
MARK D. STILL xxx-xx-x...
JOSEPH T. STINE, III xxx-xx-xx...
SAMUEL C. STITT, JR. xxx-xx-xx...
KAREN W. STOFFER xxx-xx-x...
ELIZABETH G. STOUT xxx-xx-x...
MICHAEL L. STRAIGHT xxx-xx-x...
ROBERT F. STRASSER xxx-xx-x...
JON E. STROBERG xxx-xx-x...
LARRY D. STROM xxx-xx-x...
DONNA J. STROMBECK xxx-xx-x...
JOHN C. STULTS, JR. xxx-xx-xx...
FREDERICK G. STUMPF, JR. xxx-xx-xx...
MARTIN R. STYTZ xxx-xx-x...
JOHN F. SULLIVAN xxx-xx-x...
MICHAEL P. SULLIVAN xxx-xx-x...
DAVID C. SWETZ xxx-xx-x...
WILLIAM M. SWIDEREK xxx-xx-x...
STANLEY J. SZYBILLO xxx-xx-x...
WILLIAM H. SZYCH xxx-xx-x...
RICHARD A. TAKACS xxx-xx-x...
LAURIE H. TALBOT xxx-xx-x...
GILBERT J. TALKINGTON xxx-xx-x...
MICHAEL C. TANKERSLEY xxx-xx-x...
JOYCE A. TATANUS xxx-xx-x...
MARILYN M. TAYLOR xxx-xx-x...
RICHARD W. TAYLOR xxx-xx-x...
ROBERT L. TAYLOR xxx-xx-x...
BRUCE L. TEAGARDEN xxx-xx-x...
CHARLIE A. TEMPLETON xxx-xx-x...
RODNEY G. TEMPLETON xxx-xx-x...
CARL R. TEMPLIN xxx-xx-x...
KENNETH E. TERRY xxx-xx-x...
LINDA L. TEZAK xxx-xx-x...
STEPHEN G. THERIAULT xxx-xx-x...
SAM C. THERRIEN xxx-xx-x...
JEFFREY S. THOMAS xxx-xx-xx...
PATRICK J. THOMAS xxx-xx-x...
BRUCE T. THOMPSON xxx-xx-x...
CLAUDE B. THOMPSON, JR. xxx-xx-x...
DARRYL W. THOMPSON xxx-xx-x...
DONALD R. THOMPSON xxx-xx-x...
FREDERICK H. THOMPSON xxx-xx-x...
DAVID V. THYFAULT xxx-xx-x...
WAYNE C. TISUE xxx-xx-x...
JAMES E. TLUSTOS xxx-xx-x...
DANIEL C. TODD xxx-xx-x...
DONALD B. TODD xxx-xx-x...
ANTHONY M. TOICH xxx-xx-x...
THOMAS P. TOOLE xxx-xx-x...
BARBARA J. TOWNSON xxx-xx-x...
ROBERT L. TRAPP xxx-xx-x...
DAVID M. TRASK xxx-xx-x...
JOHN M. TRAXLER xxx-xx-x...
ROBERT K. TRAYLOR xxx-xx-x...
PETER P. TRENT xxx-xx-xx...
EDWARD F. TRIMBLE xxx-xx-x...
MICHAEL D. TROTTER xxx-xx-x...
BRUCE R. TROXEL xxx-xx-x...
ANTHONY A. TRZECIAK xxx-xx-x...
EDWARD J. TULLMAN, JR. xxx-xx-x...
ROBERT W. TURNER xxx-xx-x...
THOMAS E. TWIGG xxx-xx-x...
JOE E. TYNER xxx-xx-x...
JAMES R. UKEN xxx-xx-xx...
LINDA J. ULLOM xxx-xx-x...
HUGO S. VALDIVIA xxx-xx-x...
MICHAEL E. VALENTINE, JR. xxx-xx-x...
ALAN R. VANEPPS xxx-xx-x...
MICHAEL R. VANHOUSE xxx-xx-x...
RONALD L. VANVLEET xxx-xx-x...
THOMAS F. VELTRI xxx-xx-x...
GARY D. VERBOIS xxx-xx-x...
HAROLD L. VICE xxx-xx-x...
CHARLES S. VOELKER xxx-xx-x...
STEVEN J. VREELAND xxx-xx-x...
STEVEN P. WACHOLTZ xxx-xx-x...
MILTON H. WADDELL xxx-xx-x...
PAGE A. WAGNER, III xxx-xx-x...
CHRISTOPHER J. WALECKA xxx-xx-x...
LARRY R. WALKER xxx-xx-x...
CLINTON G. WALLACE xxx-xx-x...
JOHN J. WALLACE xxx-xx-x...
MICHAEL J. WALLACE xxx-xx-x...
JAMES P. WALLER xxx-xx-x...
CARY R. WALLINGTON xxx-xx-x...
GEORGE E. WALROND xxx-xx-x...
JAMES M. WALTMAN xxx-xx-x...
WAYNE R. WASHER xxx-xx-x...
STEPHEN T. WASHINGTON xxx-xx-x...
DAVID L. WATERSTREET xxx-xx-x...
NORMAN L. WATSON xxx-xx-x...
STEVEN M. WATSON xxx-xx-x...
DAVID G. WATT xxx-xx-x...
JEFFREY J. WATTERBERG xxx-xx-xx...
STEVEN L. WEAVER xxx-xx-x...
MICHAEL M. WEBB xxx-xx-x...
JOHNNY A. WEIDA xxx-xx-x...
JAMES H. WEIDNER xxx-xx-x...
STEVEN D. WEILBRENNER xxx-xx-x...
NORMAN A. WEINBERG xxx-xx-x...
WILLIAM P. WELCH xxx-xx-x...
DAVID A. WELLS, JR. xxx-xx-x...
DARLENE E. WENGERT xxx-xx-x...
GARY C. WEST xxx-xx-x...
JOHN M. WEST xxx-xx-x...
WILLIAM E. WEST xxx-xx-x...
MARTIN W. WESTERFIELD xxx-xx-x...
SCOTT W. WESTFALL xxx-xx-x...
STEVEN F. WESTFALL xxx-xx-x...
JOHN M. WESTON xxx-xx-x...
MICHAEL N. WETHERELL xxx-xx-x...
JAMES D. WHEELER xxx-xx-x...
LONNIE B. WHEELER xxx-xx-x...
WILLIAM J. WHITE, JR. xxx-xx-x...
CHARLES M. WHITEHURST xxx-xx-x...
KENNETH L. WHITLEY xxx-xx-x...
JAMES A. WHITMORE xxx-xx-x...
STEPHEN S. WHITSON xxx-xx-x...
CLARK P. WIGLEY xxx-xx-x...
EDWARD T. WILCOCK xxx-xx-x...
DANNY T. WILHELM xxx-xx-x...
BOBBY J. WILKES xxx-xx-x...
KEVIN J. WILLEY xxx-xx-x...
ALDEN A. WILLIAMS xxx-xx-x...
CHARLEY L. WILLIAMS xxx-xx-x...
CLARENCE J. WILLIAMS, JR. xxx-xx-xx...
GLENN H. WILLIAMS xxx-xx-x...
GREGORY H. WILLIAMS xxx-xx-x...
PAUL WILLIAMS xxx-xx-x...
PAUL S. WILLIAMS xxx-xx-x...
TOMMIE L. WILLIAMS, JR. xxx-xx-x...
WILLIAM J. WILLIAMS xxx-xx-x...
DAVID WILLIAMSON xxx-xx-x...
DAVID M. WILLIAMSON xxx-xx-x...
ROY W. WILLIS, JR. xxx-xx-x...
DANNY S. WILMOTH xxx-xx-x...
WALTER W. WILSEY, II xxx-xx-x...
JOE D. WILSON xxx-xx-x...
RICHARD L. WILSON xxx-xx-x...
STUART E. WILSON xxx-xx-x...
WILLIAM E. WIMPEE xxx-xx-x...
DAVID M. WINTERMUTE xxx-xx-x...
RICHARD A. WIRTANEN xxx-xx-x...
NEIL WISE, III xxx-xx-x...
STEPHEN A. WOJCICKI xxx-xx-x...
DOREEN M. WOLF xxx-xx-x...
GERRY D. WOLFE xxx-xx-x...
LARRY H. WOLFE xxx-xx-x...
CRAIG WOLFENBARGER xxx-xx-x...
BRUCE S. WONG xxx-xx-x...
ROBERT E. WOOD xxx-xx-x...
ROBERT J. WOOD xxx-xx-x...
STEPHEN K. WOODS xxx-xx-x...
JOSEPH B. WOODSIDE xxx-xx-x...
STEVEN L. WOOLF xxx-xx-x...
MICHAEL G. WOOLLEY xxx-xx-x...
ROY M. WORDEN xxx-xx-x...
FRANCIS F. WORLEY, JR. xxx-xx-x...
ROBERT M. WORLEY, II xxx-xx-x...
RICHARD A. WORTHINGTON xxx-xx-x...
WILLIAM K. WRAY xxx-xx-x...
LARRY B. WRIGHT xxx-xx-x...
SAMMIE L. WRIGHT xxx-xx-x...
THOMAS B. WRIGHT xxx-xx-x...
MICHAEL M. WYKA xxx-xx-x...
MICHAEL L. YORK xxx-xx-x...
CARLTON E. YOUNG xxx-xx-x...
JERRY M. YOUNG xxx-xx-x...
LARRY N. YOUNG xxx-xx-x...
ROBERT E. YOUNG xxx-xx-x...
ROGER YOUNG xxx-xx-x...
STEPHEN F. YOUNG xxx-xx-x...
TERRENCE J. YOUNG xxx-xx-x...
JOHN W. ZAHRT xxx-xx-x...
MARK R. ZAMZOW xxx-xx-x...
ANTHONY F. ZDANUK, JR. xxx-xx-x...
ERNEST E. ZERNIAL, JR. xxx-xx-xx...
ROSS A. ZIEGENHORN xxx-xx-x...
STEVEN J. ZUFFOLETTI xxx-xx-xx...
NICHOLAS F. ZUNIC, III xxx-xx-x...

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

To be lieutenant colonel

ROSS C. BROWN xxx-xx-x...
THOMAS O. BROWN xxx-xx-x...
DONALD T. BURNET xxx-xx-x...
DON J. CHRISTENSON xxx-xx-x...
DAVID H. CYR xxx-xx-x...
JAMES W. DANIELS xxx-xx-x...
RICHARD B. DAVENPORT xxx-xx-x...
MICHAEL J. DIRENZO xxx-xx-x...
JAMES R. DIXON xxx-xx-x...
PHILIP J. FAIN xxx-xx-xx...
CLARENCE B. GOODWIN xxx-xx-x...
RANDON N. HESGARD xxx-xx-x...
DWIGHT D. JOHNSON xxx-xx-x...
CURTIS D. LINGE xxx-xx-x...
BOB C. LYNCH xxx-xx-x...
GREGORY J. MALINSKY xxx-xx-x...
JAMES D. PATRICK xxx-xx-x...
GARY A. PIEPKORN xxx-xx-x...
JEROLD L. PRESTON xxx-xx-x...
JAMES D. SAUNDERS xxx-xx-x...
JAMES A. SCHIFFER xxx-xx-xx...
JOHN J. SECRET xxx-xx-x...
JOHN C. SIMMONS xxx-xx-x...
JAMES A. SNYDER xxx-xx-x...
JOHN W. STEFERO xxx-xx-x...
LEE M. THOMPSON xxx-xx-x...
JOSEPH R. WAGNER xxx-xx-x...
JOHN G. WHITLEY xxx-xx-x...
MICHAEL C. WHITTINGTON xxx-xx-x...

JUDGE ADVOCATE

To be lieutenant colonel

HOWARD R. ALTSCHWAGER xxx-xx-x...
SAMUEL S. BAGLEY xxx-xx-x...
MARILYN D. BARTON xxx-xx-x...
MARY M. BOONE xxx-xx-x...
BRUCE T. BROWN xxx-xx-x...
WILLIAM M. BURD xxx-xx-x...
DWIGHT D. CREASY xxx-xx-x...
ROBERT G. CURIONE xxx-xx-x...
MARILYN H. DAVID xxx-xx-x...
DAVID G. EHRHART xxx-xx-x...
WILLIAM J. FABER xxx-xx-x...
DAVID A. FAHEY xxx-xx-x...
THEODORE J. FINK xxx-xx-x...
DONALD P. FLYNN, JR. xxx-xx-x...
BRADLEY P. GRANT xxx-xx-x...
EVAN L. HABERMAN xxx-xx-x...
HARRY L. HEINTZELMAN, IV xxx-xx-x...
WILLIAM J. HOLLMANN xxx-xx-x...
SHERRI W. JOHNSON xxx-xx-x...
DONALD R. LANGFORD xxx-xx-x...
CHARLES E. LATIMER xxx-xx-x...
JOHN C. MANTINI xxx-xx-x...
CHERYL L. NILSSON xxx-xx-x...
DONALD A. PLUDE xxx-xx-x...
LARRY W. PRICE xxx-xx-x...
RICHARD E. SARVER xxx-xx-x...
DAVID F. SHUTLER xxx-xx-x...
RICHARD B. SORENSON xxx-xx-x...
JOYCE I. SPISAK xxx-xx-x...
DEBORAH A. SUCHENSKI xxx-xx-x...
DONALD E. WALSH xxx-xx-x...
RODNEY A. WOLTHOFF xxx-xx-x...
DAVID S. YASTISHOCK xxx-xx-x...

NURSE CORPS

To be lieutenant colonel

MARILYN S. ABUGHUSSON xxx-xx-x...
GERALD R. ADLER xxx-xx-x...
CONSTANCE M. ALGER xxx-xx-x...
PHYLLIS E. ALLEN xxx-xx-x...
SARAH L. ALLEN xxx-xx-x...
LAUREL M. ANDERSON xxx-xx-x...
ALEXIS J. ARAMINI xxx-xx-x...
JILL V. BAKER xxx-xx-x...
KATHLEEN M. BARR xxx-xx-x...
MARY H. BEHR xxx-xx-x...
LINDA J. BISHOP xxx-xx-x...
SANDRA D. BOTTEMILLER xxx-xx-x...
DANE A. BRENNO xxx-xx-x...
ANNETTE BROWNSTEIN xxx-xx-x...
JAMES R. BROYLES xxx-xx-x...
PATRICIA A. BUCK xxx-xx-x...
ELLEN J. CARSON xxx-xx-x...
KATHY A. CASSAGNOL xxx-xx-x...
LESLIE A. CHAPMAN xxx-xx-x...
ALICE M. CHATLEY xxx-xx-x...
COLLEEN A. CHRISTENSEN xxx-xx-x...
JANICE C. COLLINGS xxx-xx-x...
KATHLEEN P. COLLINS xxx-xx-x...
GAILYN J. CONSER xxx-xx-x...
ALICE N. COX xxx-xx-x...
CHARLES A. CROSS xxx-xx-x...
GUY R. DALRYMPLE xxx-xx-x...
MARY J. DISTEL xxx-xx-x...
FRED D. DOKES, III xxx-xx-x...
CYNTHIA A. EBELACKER xxx-xx-x...
ROGER D. EMMICK xxx-xx-x...
DEBRA A. ERICKSONOWENS xxx-xx-x...
FREDERICK FESEL xxx-xx-x...
CYNTHIA M. FUEGER xxx-xx-x...
MARY E. FUSCO xxx-xx-x...
WILLIAM F. GAMETT xxx-xx-x...
NANCY O. GENTRY xxx-xx-x...
GABRIEL A. GIGLIOTTI xxx-xx-x...
THOMAS M. GORMLEY xxx-xx-x...
NANCY L. GRELLA xxx-xx-x...
COLLEEN L. GUTIERREZ xxx-xx-x...
KENNETH R. HAINES xxx-xx-x...
JACQUELINE D. HALE xxx-xx-x...
PAUL P. HALL, JR. xxx-xx-xx...
LOUISE A. HARRELL xxx-xx-x...
JEAN M. HOHM xxx-xx-x...
JANE M. HOLTZ xxx-xx-x...
DEBORAH A. JANSON xxx-xx-x...
GARYE D. JENSEN xxx-xx-x...
MARJORIE P. JENSEN xxx-xx-x...
JEWETT G. JOHNSON xxx-xx-x...
HELEN L. KARABIN xxx-xx-x...
MAUREEN M. KILLEY xxx-xx-x...
KAREN A. KIZIS xxx-xx-x...
THOMAS F. KNIGHT xxx-xx-x...
STEVEN E. LEARY xxx-xx-x...

MARY E. LIEBERMANN [redacted]
BENNIE D. LITTLE [redacted]
DIANA M. LOMBARDO [redacted]
CAROLE A. LYONS [redacted]
MARY L. MAXIN [redacted]
GWENDA A. MCCLURE [redacted]
CAROL D. MCDOWELL [redacted]
LLOYD A. MILLER [redacted]
SHIRLEY A. MILLER [redacted]
MARY E. MORAN [redacted]
DANA R. MORRILL [redacted]
DOROTHEA L. MORRIS [redacted]
DEBORAH J. MOSS [redacted]
RUTH O. MOSS [redacted]
ERIC C. MURDOCK [redacted]
BRIAN M. NEMETH [redacted]
JOHN C. NICHOLS [redacted]
MARY E. NOVAK [redacted]
JANELLA G. PETERS [redacted]
PATRICIA A. PETERS [redacted]
JANET C. PLACE [redacted]
ALAN G. PYSHER [redacted]
CAROL V. RAWLINS [redacted]
WANDA L. RED [redacted]
PAMELA J. REIDY [redacted]
MARIAN S. RODGERS [redacted]
ROBIN E. ROGERS [redacted]
SHIRLEY A. ROGERS [redacted]
MICHELLE C. SABREE [redacted]
JANINE M. SAULPAUGH [redacted]
JUDITH M. SCHWARTZ [redacted]
LORETA S. SEWALL [redacted]
DONNA L. SIMPSON [redacted]
HOLLY A. SLATER [redacted]
LYNDA K. SMITH [redacted]
JEANETTE M. SPLONSKOWSKI [redacted]
ROBERT C. STOLAR [redacted]
MARGARITA D. VASQUEZ [redacted]
GRETCHEN WESTON [redacted]
MARGARET J. WILLIAMS [redacted]
GILBERT W. WOLFE [redacted]
ROBERTA A. WOLFE [redacted]
SARAH A. WRIGHT, 048-38-9822

MEDICAL SERVICE CORPS

To be lieutenant colonel

DAVID L. AYCOTH [redacted]
BRUCE N. BOSSART [redacted]
PAUL A. BUCCERI [redacted]
WILLIAM M. CARROLL [redacted]
DEBRA A. CERHA [redacted]
DOUGLAS C. DAVIS [redacted]
DONALD C. EDGELL [redacted]
BARBARA B. ERICKSON [redacted]
MICHAEL J. FITZWATER [redacted]
JAMES F. GEIGER [redacted]
STEPHAN A. GIESECKE [redacted]
RONALD M. GILLIARD [redacted]
BRUCE P. HESELTINE [redacted]
PAUL R. LEMMINGS [redacted]
STEPHEN L. MEIGS [redacted]
MICKEY J. MELTON [redacted]
RAYMOND L. MOUSE [redacted]
CARLETON L. MURPHY [redacted]
PAUL W. NICE [redacted]
RICHARD D. PLEASANTS [redacted]
STEPHEN J. PRIBYL [redacted]
WILLIAM R. RENWICK [redacted]
FRANK L. RUBINO [redacted]
JAMES D. SHEPARD [redacted]
JONATHAN S. STAPLEY [redacted]
ROY U. TWEEDLE [redacted]
DOUGLAS J. VANCE [redacted]
PETER D. VROOM [redacted]
RONALD E. WILDMAN [redacted]
RICHARD E. WILLIS [redacted]

BIOMEDICAL CORPS

To be lieutenant colonel

DENNIS R. ARMSTRONG [redacted]
CAROL L. AYCOTH [redacted]
GEORGE L. BERBERICH [redacted]
WILLIAM G. BLACK, JR [redacted]
DANIEL R. BROWN [redacted]
ROCKY D. CALCOTE [redacted]
DARREL R. CORNELL [redacted]
YANGCHA P. CRABB [redacted]
WILLIAM J. CURRAN, JR [redacted]
JAMES G. DALEY [redacted]
JIM A. DAVIS [redacted]
JOSEPH R. DURIO [redacted]
EVA M. ECKBURG [redacted]
LANCE H. EDWARDS [redacted]
ROBERT W. FOULKS [redacted]
JAMES D. FRASER [redacted]
GARY D. GACKSTETTER [redacted]
EDWIN L. GERWELL [redacted]
WILLIAM A. GRADWELL [redacted]
FRANK E. GRAF [redacted]
GARY A. GURITZ [redacted]
WILLIAM R. HALLMARK [redacted]
MARK A. HAMILTON [redacted]
ALBERT A. HARTZELL [redacted]
NELSON L. HENNING [redacted]
DANNY L. HOLT [redacted]
MOHAMMAD A. HOSSAIN [redacted]
STEPHEN H. HOUGH [redacted]
HARRY P. HOWITT [redacted]
TIMOTHY C. IHRY [redacted]
DENEICE L. JACKSON [redacted]
LINDA D. JENKINS [redacted]
JOHN B. JESSEN [redacted]
BRENDA L. JONES [redacted]
JOHN F. KENT [redacted]
THERESA S. KENT [redacted]
PAUL E. KERCH [redacted]
JO LONGLEY [redacted]
DAVID C. LULL [redacted]
ROBERT E. MATHIS [redacted]
RUSSELL H. MATTERN [redacted]
JAMES N. MCDOUGAL [redacted]
KENNETH L. MEYER [redacted]
WILLARD W. MOLLERSTROM [redacted]
ESTHER F. MYERS [redacted]
RICHARD D. NEWSOME [redacted]
DONALD E. PULCIFER [redacted]
GARY L. PULVERMACHER [redacted]
JOHN N. QUIRK [redacted]
DENNIS L. RAY [redacted]
ROBERT W. SADOWSKI [redacted]
ROBERT J. SARVAIDEO [redacted]
BARRY L. SAVORY [redacted]
MICHAEL L. SHELLEY [redacted]
LORRAINE SHELTONGAINES [redacted]
PAUL J. SHONEBARGER [redacted]
LOWELL L. SNITCHLER [redacted]
FORREST R. SPRESTER [redacted]
TERRY L. STODDART [redacted]
REBECCA J. SUTAY [redacted]
STEVEN H. TALLANT [redacted]
JOYCE E. TETERS [redacted]
PHILIP F. THORNTON [redacted]
LEO J. WARD, JR [redacted]
KATHY L. WARE [redacted]
RANDOLPH S. WOLF [redacted]
DAVID S. WOLPERT [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 28, 1991:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Wendell P. Gardner, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997.

THE JUDICIARY

Warren Roger King, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years.

DEPARTMENT OF LABOR

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

DEPARTMENT OF THE TREASURY

Desiree Tucker-Sorini, of Colorado, to be an Assistant Secretary of the Treasury.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF JUSTICE

Robert T. Guiney, of Massachusetts, to be U.S. Marshal for the District of Massachusetts for the term of 4 years.

John H. Robinson, of Nevada, to be U.S. Marshal for the District of Nevada for the term of 4 years.

THE JUDICIARY

Jane R. Roth, of Delaware, to be U.S. Circuit Judge for the Third Circuit.

Sterling Johnson, Jr., of New York, to be U.S. District Judge for the Eastern District of New York.

Harvey E. Schlesinger, of Florida, to be U.S. District Judge for the Middle District of Florida.

Ralph W. Nimmons, Jr., of Florida, to be U.S. District Judge for the Middle District of Florida.

EXTENSIONS OF REMARKS

WORLD CUP UNITED STATES OF AMERICA 1994 COIN BILL

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COX of California. Mr. Speaker, for the first time in history, the United States has been selected as host for the World Cup Soccer Championship in 1994. The World Cup is staged every 4 years and is the largest single sport spectacle in the world.

The first World Cup was held in Uruguay in 1930, and except for the war years—1942 and 1946—the event has been held quadrennially. Brazil, West Germany and Italy have each won the World Cup three times, while Uruguay and Argentina have won the coveted trophy twice each. England was victorious in 1966.

The World Cup Tournament consists of 24 national teams playing a total of 52 games over a 1-month period. The defending champion and the host country automatically qualify. The remaining 22 countries must survive grueling continental elimination tournaments in which all 166 FIFA countries are eligible to compete. For the 1990 World Cup, 112 nations played 313 games over an 18-month span to determine which nations joined host Italy and defending champion Argentina.

The format calls for 36 first round games, during which teams are divided into six groups of four and play a round-robin schedule within the group. This reduces the initial field to 16 teams, which commence the single-elimination second round.

Mr. Speaker, as a former collegiate soccer player, I am very excited about the opportunities this historic event offers all Americans. Many of our learning experiences in life are centered around activities such as soccer. We learn early the principles of sportsmanship, self-discipline, the joy of winning and accepting defeat.

The World Cup is a great opportunity to attract our young people to those experiences which teach principles and values that will assist them in becoming productive members of society. To assist the United States effort to insure the event will be a success, I have joined my colleagues as an original cosponsor in introducing the "World Cup USA 1994 Commemorative Coin Act." This bill will create gold, silver and clad coins to be sold to the public in commemoration of the World Cup. This will give interested Americans an opportunity to support the games and receive a memento in return. Furthermore, the design of the coin will be selected from an open competition in which all interested individuals may submit a suggested design.

Mr. Speaker, consistent with Olympic coin bills, the World Cup coin bill will impose a surcharge on each coin sold, which will go to the World Cup USA 1994 Organizing Committee to be used in staging the event. This is a very important source of revenue which is needed to make the event a first class success.

I have had the distinct privilege of being involved since the beginning of the U.S. effort to host the World Cup. While working for former President Ronald Reagan in the office of White House Counsel, it was my responsibility to secure commitments from the relevant government agencies so President Reagan could give the international governing body, Federation Internationale de Football Association [FIFA], some assurance that the United States was committed to assist with all that is necessary as a potential host country. I am pleased that we were successful in winning the bid and look forward to a successful event.

Mr. Speaker, as I mentioned earlier, the World Cup coin bill is a very important component of the U.S. effort to host this historic event. I would like to encourage all my colleagues to join with us as cosponsors and get behind the U.S. effort. This is a great chance for the United States to promote an effort which could have a positive influence on this Nation and expand the soccer opportunities for all Americans—particularly our youth—and allow them the opportunity to learn the principles of fair-play and self-discipline.

EARTHQUAKE HAZARD REDUCTION AMENDMENTS ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SWIFT. Mr. Speaker, last Congress I introduced legislation which was to be a first step in the legislative process by which we hope to make earthquake insurance more affordable and available for all Americans. Today, I am joining with three of my colleagues in introducing the Earthquake Hazard Reduction Amendments Act which will hopefully be the next important step in protecting homeowners and our national economy from the catastrophic consequences of major earthquakes.

The bill we are introducing today is a compromise. It blends the best features of two earthquake hazard reduction and insurance bills introduced last year: the Swift-Dreier bill—H.R. 4480—and the Brown-Boehlert bill—H.R. 4915.

The introduction of this bill should enable us to unite the supporters of both bills from last year and move the congressional debate forward. This bill is not perfect. Like all compromises, no one is completely satisfied with every provision of the bill. But we all know that the introduction of legislation is merely the beginning of the process. Specific details will be worked out during the hearing and markup process. But for now, this bill is an excellent vehicle to begin the legislative journey.

Earthquakes are a serious threat throughout our Nation. They are an exclusive San Francisco phenomenon. We tend to think only of California when we mention earthquakes. But major earthquakes can occur almost anywhere in our country. Well over half of our States—39 to be exact—are vulnerable to major or moderate earthquakes. For example, the Puget Sound region of my State is especially prone to a major quake, having already withstood damaging jolts in 1949 and 1965.

Further, earthquakes are not even restricted to the west coast. They can easily occur east of the Rocky Mountains. In fact, the largest earthquake in recorded American history occurred along the New Madrid fault in the Central United States.

What is more sobering is that earthquakes—catastrophic earthquakes—are inevitable. Most seismologists say there is near certainty that a monster quake at least 30 times more powerful than the 1989 San Francisco earthquake will strike somewhere in the United States within the next 30 to 40 years.

A devastating quake occurring anywhere in the United States would have lasting impacts for the entire Nation. Destroyed highways, bridges, gas pipelines, and transmission lines would affect regions thousands of miles from the epicenter. Insured losses could easily exceed $50 billion. There is no question that losses of this kind would have a dramatic impact on our national economy thus affecting every American.

The combination of these three factors could prove to be most harmful for individual homeowners since many do not even have earthquake insurance due to currently high premiums and deductibles. Less than 5 percent of the homeowners in Washington State and most of the country have earthquake insurance. Even in the bay area of California where earthquake awareness is quite high, only 25 percent of the homeowners have quake insurance. Uninsured homeowners could lose a lifetime's worth of equity in just a few seconds of shaking.

The compromise bill we are introducing features an emphasis on saving lives and property with a new earthquake hazard reduction program. An independent mitigation committee of outside experts assisted in developing the State-oriented loss mitigation program incorporated in the bill. The mitigation program uses a combination of incentives and phase-in requirements to ensure that earthquake-prone States and local communities adopt and enforce cost-effective measures to reduce the damage from future earthquakes.

In addition, Federal disaster assistance is often required to compensate for property damaged or destoryed in an earthquake. The prefunded insurance program established in the bill by collecting premiums from homeowners and the insurance industry will help reduce the demand for Federal disaster assistance.

Finally, I wanted to say how particularly pleased I am that GEORGE BROWN has agreed to be an original cosponsor. It would be difficult to envision a more knowledgeable and respected cosponsor of this legislation than Congressman BROWN. In the Congress, he is rightly recognized as "Mr. Earthquake" because every piece of major earthquake legislation has benefited from his active involvement. I look forward to working with Congressman BROWN and the rest of my colleagues in bringing about an earthquake loss reduction and insurance program which will save lives and reduce the property losses for all Americans.

A TRIBUTE TO THE NATIONAL ASSOCIATION OF CUBAN-AMERICAN WOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the National Association of Cuban-American Women [NACAW] was established in 1977 to provide direct services to Cuban American and other Hispanic women. Founded by Dr. Ana Maria Perera, NACAW's philosophy is that Hispanic women in the United States can achieve their absolute potential by joining forces and taking advantage of available resources.

On May 20, 1991 the National Association of Cuban-American Women [NACAW] hosted its eighth annual dinner honoring five women whose lifetime accomplishments have contributed to the advancement of Hispanics in the United States. This year, NACAW recognized Dr. Antonia Novello, Surgeon General of the United States; Sara Barcelo Castany, editor in chief of Vanidades and Harper's Bazaar in Spanish; Rita Esquivel, Director of the Office of Bilingual Education and Minority Languages Affairs at the Department of Education; Judith Gascue Mouton, director of international finance, planning and control at Marriott Corp.; and Iris Martinez Arroyo, director of bilingual educaiton programs in the State of New Jersey. The key note speaker was Michael G. Kozak, Deputy Assistant Secretary of State for Inter-American Affairs.

NACAW strives to increase awareness among its constituents of numerous opportunities provided by local, State and Federal agencies and by private sector. NACAW's extends its membership to Hispanic women all over the United States.

I am pleased to recognize the national board of trustees of NACAW, Dr. Graciela Fernandez del Cueto Beecher, president; Siomara Sanchez, vice president; Milta Borrego, secretary; and Esther Guzman, treasurer. I would also like to recognize the metropolitan area chapter of NACAW: Josefina A. Lago, president; Julieta N. Valls, vice president; Julieta Noyes, secretary; and Sarah Dan, treasurer. I congratulate the five recipients of this prestigious award and commend the National Association of Cuban American Women, and especially its founder, Dr. Ana Maria Perera and its current national president, Dr. Graciela F. Beecher, director of the educational and job opportunities center, in NACAW's national office, Fort Wayne, IN, for their tremendous work.

DEAN LESHER—NEWSPAPER GIANT AND COMMUNITY SUPPORTER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MILLER of California. Mr. Speaker, for over 50 years, Dean Lesher has been publishing newspapers in California. He has developed a veritable news empire, publishing five dailies and five weeklies in my county, Contra Costa, as well as 15 other publications throughout northern California. He still publishes his first California paper, the Merced Sun-Star in Merced County, which he bought in 1941.

Mr. Lesher's success as a publisher, however, is only rivaled by his contributions to the development of one of California's fastest growing counties. He is clearly one of the most generous members of our community, supporting a wide range of causes and lending his voice to the critical issues of the day.

While it would be impossible to list all of his invaluable contributions, several in particular stand out. Mr. Lesher is a major supporter of the regional center for the arts in Walnut Creek. He helped open the Battered Women's Alternatives transitional housing shelter in Concord. He supported the expansion of Oakland's Children's Hospital, and he has contributed to the restoration of Yosemite National Park. Every year, Mr. Lesher contributes tens of thousands of dollars for scholarships to graduates of community colleges so they can continue their higher education.

On his 50th anniversary of newspaper publishing in California, I salute Dean Lesher for his success and his many valued contributions to Contra Costa County. I would like to share with my colleagues Mr. Lesher's account of his early publishing days and the events that led him to become a major supporter of our community.

[The article follows:]

LOOKING BACK ON A HALF CENTURY OF NEWSPAPER PUBLISHING

(By Dean Lesher)

I have now completed 50 years in the newspaper publishing business in California. My first publication in the state was the daily Merced Sun-Star, a paper we still own.

When I was graduated from Harvard Law School, I intended to practice law for the rest of my life. I got into the newspaper business through a peculiar set of circumstances.

A very dear friend of mine, a lawyer who was 25 years older than I, developed an ulcerated colon, spent 18 months in the hospital, lost his practice, never regained it and died of a broken heart. That made a tremendous impression on me. It led to a decision to get into some business that would support my family in the event my health failed.

The business that I had become somewhat familiar with was the newspaper business. I had provided legal representation for several papers. I also represented the only newspaper broker between Chicago and the Pacific Coast, and prepared a number of contracts for the purchase and sale of daily and weekly newspapers.

Since I was enjoying the practice of law in Kansas City, Mo., I decided to buy a daily newspaper in nearby Nebraska. The problem was that 11 months after this purchase, the preliminary census showed the area in question had lost a substantial amount of population during the last 10 years. It was quite obvious that owning a newspaper there was a mistake. So I sold it and began to look around for a better growth area in which to own a publication.

BEGINNINGS IN CALIFORNIA

I came to California and found six publications in this state available for purchase. I was thoroughly confused. I finally went to my friend John Martin, who handled all of the national advertising for Montgomery Ward. I met him in Chicago and presented my problem, giving the names and details of the publications in six areas of California.

The second area I mentioned was Merced, and he immediately said, "Stop right there. That's the place I would go. Let me tell you about Merced and our store there." After listening to his sales pitch on Merced, I gave him the other four locations. He still stayed with his conclusion that the Merced Sun-Star was the paper to buy.

I had a cashier's check and a proposed contract with the seller's name left blank. I filled both out on a portable typewriter in Chicago and mailed it to Arthur Stypes, a newspaper broker in San Francisco.

The net result was that in March 1941, we purchased the daily Merced Sun-Star. We still own the Sun-Star, and all of the daily papers in Merced and Madera counties in the San Joaquin Valley.

There were two distinct turning points in my newspaper career. The first of them arrived in 1942, shortly after Pearl Harbor. This one was created by the allocation of newsprint based upon the purchases of newsprint the publication had made during the prior three years.

The Sun-Star circulation was only 3,100, and we had increased it to more than 5,000 within a year. The net result was that our allocation of newsprint gave us only 40 percent of what we needed to satisfy our increased circulation.

The newsprint allocated to us cost us $36 a ton but was only 40 percent of the newsprint we needed. The remaining 60 percent cost us $200 a ton on the black market. It was quite obvious that before long, I would run out of money.

A CALL TO THE BANKER

I did run out of money in six months and called on my banker. I explained that I had run out of money and couldn't go on. His reply was that I had kept him advised as to what was happening, and he wanted 30 minutes to think it over.

When I returned in 30 minutes, he handed me a sealed envelope, telling me not to open it until I went home. I drove the 14 blocks to my home outside the city limits with a fear that he had turned me down or he would have shown me the letter immediately.

When I arrived home, a cashier's check for $15,000 dropped out of the envelope, together with a letter that I will never forget as long as I live. The opening sentence said, "When you asked for $10,000, I knew you could use more, so here is a check for $15,000. You are too valuable a person for the community to lose, and we have decided to keep you in business regardless of the cost."

VOW TO REPAY FAVOR

At that point, I stopped reading and broke down in tears. The banker knew that I would

do this, and he did not want me to do so in his bank. I vowed then to do something nice year every year for various people in order to repay this great favor.

We give 45 scholarships a year with a minimum amount of $1,000 per scholarship to graduates of community colleges, an area where there are few scholarships available. This is done to pass along to others some of the help that I was given at this crucial period of my life.

The second turning point was in 1966, shortly after we had gone daily with the Contra Costa Times in Walnut Creek. At that time, the Times operated on what is known as voluntary pay. We delivered to every household within a certain geographical area. And those who wished to do so paid for it. They received the paper whether they paid or not.

This was the first and only time that a voluntary pay newspaper went from a weekly to a daily successfully. We were thus a threat to all regularly paid circulation newspapers by offering a way in which competition could start in each one of their areas.

With this background, I went to the Associated Press for a franchise, appearing before the directors at an annual meeting in New York City. For the first 15 or 20 minutes, they gave me a bad time, questioning me about this unpaid circulation situation.

BIBLE LESSON

I recall distinctly asking the chairman of the meeting if I could make a statement. He immediately answered in a gruff tone saying, "Yes, if you think it will help you."

I then told the group that while I was not too familiar with the Bible, I understood that the whole philosophy of the Bible and the doctrine it preached was that if a sinner came to you, confessed his sins, told you he wanted to go straight and asked for your help in going straight, it was your duty as a Christian to help him to go straight.

I said, "I have come before you. I have confessed my sin of delivering a paper without fully paid circulation. I have told you I wanted to go straight and covert to fully paid circulation. I have asked for your help by granting me an Associated Press franchise." I then proceeded to say that to this moment I have not seen any evidence of Christianity in this room.

As the chairman told me later on, there was a shocked, thunderous silence that followed that statement. Then suddenly, an elderly, white-haired member of the board said, "Son, you sound just like a trial lawyer." I answered by saying, "Yes, sir, that's what I was for nine years."

The room broke out in loud laughter, and the suspense was ended. I knew then that we had won.

GAMBLE PAID OFF

The secretary of the Associated Press took me out of the room and asked me to stay around until the next morning so I could sign a contract for the franchise. He said it was obvious the board would vote in favor of granting it.

He then said, "You took a hell of a chance in what you said a few minutes ago." I answered by saying. "Yes, I was aware of what I was doing. The only difference between the way in which it turned out and the way it could have turned out was that I was able to walk out of the room rather than being thrown out."

These two critical events in my career as a newspaper publisher—the one in the spring of 1942 and the other in 1966—represented two very distinct turning points in my career. In each instance, my career would have been very short had I not won what I was seeking.

I have never forgotten that it is my duty each year to do something particularly good for the community in which I live and for the people who live in that community in order to repay this tremendous debt of gratitude that I owe others for the help I received throughout my career.

My personal creed is: I hope that the community is a better place in which to live because I passed through here. And I supplement this by saying that I hope there are a lot of people who will truthfully say, upon my demise, that the community is a better place in which to live, to rear a family and to do business because I lived here and was in business here for so very long.

I can never repay this community for the good things it has given me and my family during my lifetime. My aim, however, is to try to repay in the only manner in which I know how. And that is by contributing to the worthy programs of the community that make it a better place in which to live, to rear a family and to do business.

VFW POST 1739

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to recognize an important organization in the 21st District of Illinois. VFW Post 1739 in Belleville and their ladies auxiliary division have been active in southwestern Illinois and have been singled out for a commendation.

Recently this VFW Post won an award at their convention held in Rosemont, IL. They were honored for their efforts to recognize past and present prisoners of war.

Recently, the Ladies Auxiliary of the VFW Post held a special event which further showed their dedication to commemorate prisoners of war and helped them to win the award. They held a candlelight ceremony to pay tribute to POW's which was open to the public in an effort to include the community in VFW activities.

In addition to their POW activities, the Ladies Auxiliary of VFW Post 1739 gives out American flags to schools and other organizations when they are in need of a replacement. I ask my colleagues to join me today in recognizing the important efforts of VFW Post 1739.

WALLY STABBERT: A SMALL BUSINESS CHAMPION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. IRELAND. Mr. Speaker, over the course of my career, I have enjoyed knowing and working with many fine small business owners who personify the entrepreneurial spirit in America.

Today, I am pleased to share with our colleagues a short story about one small business leader, Mr. Wally Stabbert.

Mr. Speaker, having been a small businessman myself, having been through the victories and trials; the tribulations and successes, I know that a small enterprise is a complex, changing beast.

Wally has learned that lesson well, indeed, for he has led many such endeavors to success during his long and distinguished career.

But our colleagues would be interested in another, truly commendable enterprise Wally has undertaken with his typical energy, honesty, and perserverance. Not only did Wally learn his lessons, but he had the courage and dedication to pass his well-won wisdom along to others.

Too often, we in the public sector, and others in the private sector, direct our programs, investments, and energies into getting people into business—which is all well and good.

To do this exclusively, however, neglects two other, equal parts of the small business triangle: Offering management assistance to small businesses and offering sound counsel on when to expand or sell an enterprise.

In 1978, Wally Stabbert took over as president of the Institute of Certified Business Counselors, a unique organization dedicated to ensuring that a large pool of ethical, knowledgeable, savvy counselors—certified business counselors—are there to help our Nation's 2 million small businesses.

In that capacity, Wally has given back to small businesses and to his country something that is hard to place a clear value on, but even harder to succeed without—knowledge of how small enterprises work, day-in, day-out; year-in; year-out in the real world.

Starting a small business is no easy feat, but keeping them in business requires every advantage imaginable. Wally has given countless enterprises across the country the advantage of his insight, knowledge and experience, and he has trained others so that they, too, could offer the same, honest, invaluable help to entrepreneurs across the country.

Mr. Speaker, Wally Stabbert, like all small business owners, is a man of action, not words, and his willingness to stand up for small business has paid handsome dividends to our country.

So I will remind our colleagues, again, that it's easy to say you're for small business. It's how you vote that really counts.

PRACTICAL STEPS TO A NEW WORLD ORDER

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. BEREUTER. Mr. Speaker, the following editorial from the New York Times, "Get the Right Grip on Foreign Aid" speaks of the incredible opportunities within the grasp of the world community for human development in this last decade of the century—eliminating serious malnutrition and providing universal primary education, primary health care, voluntary family planning, and safe water for everyone in the world. What a monumental achievement for the human race, and one which can be achieved in conjunction with re-

ducing militarization in the Third World and improving the prospects for peace. Shifting the United States' own foreign aid priorities and policies is one important part of what it will take to build this attainable new world order. Let's continue to keep the costs of inaction—hunger and conflict—in mind as we choose whether to increase support for investment in the children of today and the adults of tomorrow through foreign assistance policies that give priority to human development for the poorest.

[From the New York Times, June 5, 1991]

GET THE RIGHT GRIP ON FOREIGN AID

Can there be a stable and just new world order in the wake of the cold war? Not unless social conditions and economic prospects improve markedly in the third world, where most of the planet's people live. That will take money, but not in unthinkable amounts. What is needed is a sharp shift in priorities, among donor and recipient countries alike.

Major givers like Japan, Germany and the World Bank press for sensible changes. But there's little sign of that spirit in Washington, where Congress is now considering the new foreign aid budget. It and the Bush Administration act oblivious to the momentous changes that have swept the world.

People everywhere now recognize private investment as the main engine of development. Policies that merely clear away bureaucratic obstacles to enterprise can accomplish miracles, especially if accompanied by modest investments in health, education and infrastructure.

In an impressively researched new report, the United Nations Development Program estimates that it would take only about $20 billion a year to eliminate serious malnutrition and provide universal primary education, primary health care, family planning and safe water by the year 2000.

About $50 billion could be found within third world countries themselves, mainly by reducing excessive military spending. The developed world, meanwhile, could match that contribution simply by living up to its promises.

If each donor met the internationally endorsed target of 0.7 percent of gross national product, development aid would rise by $50 billion a year. Industrial countries now contribute an average of 0.32 percent of G.N.P.; the U.S. contributes only 0.15 percent, or $7.5 billion

But even if outsiders greatly increase their assistance, it will be wasted if beneficiary countries keep spending excessively on arms. In recent years, Iraq has spent more than seven times as much on its military as on education and health combined. Pakistan spends three times as much on arms as on education and health. Syria has three times as many soldiers as teachers. By welcome contrast, Ghana spends five times as much on education and health as on its military.

Military spending is a politically sensitive issue anywhere. Former colonies see their militaries as emblems and defenders of sovereignty. And in many poor nations, the army is a pillar of politics. Yet sovereignty and stability would both be better served if arms money could be reclaimed.

Some leading donors have now proposed linking development aid to curbs on military spending. Germany would condition aid on the basis. Japan speaks of withholding aid from countries that spend too much on arms. The Development Committee, which advises the World Bank, and the U.N. Development Program also propose linkage.

Meanwhile, Washington still favors security spending for a handful of allies. There's far more interest in preserving sacred arms ratios between Israel and Egypt and between Greece and Turkey than in addressing the needs of the billion-plus poor people of the third world. A new world cannot be built by playing old politics with foreign aid.

A CONGRESSIONAL TRIBUTE TO HAROLD GARVIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. It is my great pleasure to take this opportunity to acknowledge the outstanding achievements of my good friend, Mr. Harold "Hal" Garvin.

Born in Salt Lake City, UT, Hal later moved to southern California, where he attended Gardena High School. He enrolled in Compton College in 1942, but left to enter into the service of his country as a member of the U.S. Air Force. A decorated World War II veteran, Hal flew 50 bombing missions over the European theater. After the war, he continued his education, earning his bachelor of arts degree in political science from Occidental College in 1947.

Hal then began his distinguished teaching career that would include stints at Dana Junior High School, San Pedro High School, and Los Angeles City College. In 1962, he began what would become a 17-year stay as an instructor at the Los Angeles Harbor College. It was during this period, from 1969 to 1971 to be exact, that Hal also worked as an administrative aide for a young, second-term Congressman by the name of GLENN ANDERSON. Much has changed in the last 20 years, but our warm, personal friendship continues to endure.

In 1979, Hal was elected to the board of trustees of the Los Angeles Community College District. He has continued on the board in outstanding fashion, having been re-elected in 1983 and 1987, serving as vice-president from 1985 to 1986, and president from 1987 to 1989. In addition to these duties, Hal has been very active in civic and charitable affairs, including being a member of Common Cause, the Harbor Area Human Relations Council, and the United Nations Association, as well as a fund raiser for the YMCA and the San Pedro Community Hospital. His devotion to his family, and his tireless efforts to enrich the lives of everyone he touches make Hal Garvin a leader and role model within his community. In recognition of his efforts, Hal has been named as the recipient of the 1990–91 Amicus Collegii award, which every year acknowledges an outstanding community leader. I can think of no one more deserving of this honor.

It is with sadness that Hal's 43-year relationship with the Log Angeles Community College District comes to an end. On Friday, June 28, friends and colleagues will be attending a dinner to pay tribute to Hal's many achievements. It is with great pride that I lend my voice as well.

Mr. Speaker, my wife Lee joins me in extending this congressional salute to Hal Garvin. We wish only the best for him, his wife Frances Rhoades, and their three children.

HAPPY ANNIVERSARY, RICHARD AND BEVERLY WILLIAMS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. LAGOMARSINO. Mr. Speaker, Sunday, June 30, 1991, marks the 40th wedding anniversary of two of my constituents from Santa Barbara, Richard and Beverly Williams. Their son, who now works in the Congress and resides in northern Virginia, has written a short congratulatory message on behalf of his wife Brent and his sister Laura and her family. At his request, I insert the message in the CONGRESSIONAL RECORD:

THE 40TH ANNIVERSARY OF RICHARD AND BEVERLY WILLIAMS

Richard and Beverly Williams deserve the title, World's Greatest Parents. They provided a loving, caring, nurturing and supportive environment for my emotional, spiritual and physical development and that of my sister. I wish to take this opportunity, on behalf of my wonderful wife Brent and my sister Laura and her family, to thank them from the bottom of my heart for all their love, attention and support.

It is so easy for parents in today's environment to get caught up in their own needs, to put their personal desires ahead of those of their young children. After all, to some, children only stand in the way of grand personal accomplishments of wealth, fame and notoriety. From this perspective, children are a hindrance rather than a joy, a burden rather than a reward, a nuisance and bother rather than a blessed miracle.

My parents took the exact opposite approach. They provided the most loving, supportive and comforting environment in which their children could grow and learn, and try and fail and try again—all the while encouraging them on to greater heights.

They viewed it as their responsibility as parents to be understanding and generous, no matter what the circumstances. They knew that "providing for" didn't mean simply giving gifts, since respect and admiration and love can never be bought. To them, it meant giving of oneself, being willing to love no matter what, weathering the stormy times as well as the good. They knew that "providing for" also meant knowing when to step in with a firm hand and just enough discipline to make you think about the implications of your actions.

My parents put their children's happiness and well-being ahead of their own. They are truly the most selfless and giving people I know. Everything they did was for their chilren.

And we, and our spouses and children, are better for it.

When I think of all the people I could model my life after, the choice is easy: it's my father. He was (and is) always there for me. He supported me every step of the way. If I am half as good a father to my children as he was to my sister and me, I'll consider myself a success.

And my mother, who has nourished me in body and soul over the years. She set the highest of standards—for myself, as well as for the woman I would eventually call my

wife. I feel I am the luckiest man alive to have not only the world's greatest mother, but the world's greatest wife. It's not surprising that they are so much alike and get along so well.

Forty years ago this Sunday, two kind, loving and generous people chose to set sail on a journey together—a journey that proved difficult at times, but always interesting. In a sense, I feel I was a part of that blissful day. For I have come to know well the love and respect they have for each other.

And they certainly should know the love and admiration and respect that we feel for them on this, their special day. They are heroes in my eyes. They willingly accepted the hardest job in the world—parenting—and passed with flying colors.

On behalf of all of those whose lives you have so profoundly touched, I say thank you. Thank you for your love, your warmth, your generosity, your stamina, your support, your encouragement, your wisdom and your sacrifices, and your guiding hand along the road of life. You're the greatest, M&D. We love you. Happy happy fortieth anniversary.

INTRODUCTION OF THE HIGHER EDUCATION INDIAN STUDENT LOAN PROGRAM—THE CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT OF 1991

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation which would assist both Indian tribes and Indian students. We are fast approaching the 21st century and in order to remain competitive, the education of America's children must be a top priority. Unfortunately, there is a large segment of our Nation's children that are often left out—our country's native Americans. Because most Indian families live below the poverty line they experience a low level of education, poor access to health care, high unemployment, and economic hardship. If this population is to rise above these conditions, I believe it is important for their children to continue their education.

Currently, there are only 14,382 Indian students nationwide continuing their education. Sadly, this represents only a small percentage of those that could attend a postsecondary institution if they had adequate financial assistance and guidance. I recently introduced legislation to provide tribes with additional financial resources for young Indian students. The legislation I am introducing today will address the just as important issue of recruiting more native Americans into postsecondary institutions. It will also encourage tribal members who complete a postsecondary education to return to the reservation so that tribes can benefit from their education and expertise, and provide role models for other Indian children.

My legislation would work hand-in-hand with the existing Indian higher education grants program which provides financial assistance to Indian students. It would offer tribes the opportunity to identify certain professions or areas of study as "critical needs." An Indian student preparing to attend college could examine the various areas of critical needs, select a listed course of study and qualify for financial assistance so long as the student agrees to work on the reservation after graduation.

In other words, if an Indian tribe is in need of nurses, financial assistance could be offered to students to pursue a nursing degree so that they can return to their tribe with these needed skills. The Indian student with nursing skills could work at the Federal, State, or local levels in hospitals, clinics, schools, or other facilities which provide services to the tribe.

Mr. Speaker, my legislation would benefit both Indian students and Indian tribes—Indian students who might not otherwise be able to afford college would receive an education and Indian tribes who are seeking workers in critical areas will receive a needed work force. I urge my colleagues to support this important legislation.

JANE APPLEGATE: A SMALL BUSINESS CHAMPION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. IRELAND. Mr. Speaker, I think all of our colleagues know how challenging it can be, at times, to persuade all 435 Members of Congress to focus on a single topic when we face a stampede of issues daily.

To draw the attention of the entire Nation, then, to a weekly newspaper column on small business issues, of all topics, must be a truly daunting task.

It seems to me that to succeed in such an intimidating enterprise, a reporter would have to command a staggering mix of strengths and talents: A keen and penetrating knowledge of the entrepreneurial process and the issues that affect it; a balance of savvy and sympathy that leads to stories that engage the mind; and a reportorial style that captures the imagination of the audience.

These strike me as but a few of the talents that an accomplished reporter and writer must have, and Ms. Jane Applegate possesses them all—and more—in startling abundance.

Jane Applegate, as all of you know, is an award-winning financial reporter for the Los Angeles Times who writes the nationally syndicated small business column that appears in the Washington Post business section every Monday.

Jane joined the L.A. Times business staff in 1983. In 1988, she launched her weekly column, "Succeeding in Small Business," and just 2 years later, her weekly reports on small business jumped into syndication. Today, Jane's column appears in newspapers from coast-to-coast; border-to-border.

As if her success in bringing small business reporting to readers across America were not accomplishment enough, Jane's first book will be published next year.

Mr. Speaker, about 2 months ago, I had the pleasure of sitting next to Jane at a Commerce Department meeting. I found in her conversation the same characteristics that make reading her column so rewarding each week: A sincere and infectious interest in small business; a commendable store of capitivating facts and insights; and a true delight in the stories she discovers in our Nation's small business community.

I bring Ms. Applegate to the attention of our colleagues, Mr. Speaker, as an example of what can be done when someone holds a genuine interest in and passion for our Nation's small business community.

It seems to me that if this kind of enthusiasm can move a whole nation of readers to follow small business issues, then we in the House should muster a bit of that same excitement—and see what happens when all 435 of us focus on the problems and promises of our country's entrepreneurs.

And, Mr. Speaker, when that golden day arrives, I hope we will all apply a simple principle: It's easy to say you are for small business, but it is how you vote that really counts.

RED ARMY LEAVES HUNGARY

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COX of California. Mr. Speaker, last Wednesday, June 19, the last Red army troops left Hungarian soil, ending almost 45 years of Soviet occupation and domination. For four long decades, Hungary has suffered under Soviet communism. On Sunday, June 30, the Hungarian people will officially celebrate the withdrawal of the Soviet occupying force and the return of full Hungarian sovereignty, and I think it is only fitting for the United States to help them celebrate.

To this end, today I shall introduce a House joint resolution—cosponsored by over 20 of my colleagues—which will officially do away with Hungary's classification as a Communist state. Unfortunately, Hungary is still labeled as a Communist state in several of our laws, and is thus denied important economic and political benefits to which other nations friendly to the United States are entitled. It is now time for America to recognize formally Hungary's transformation from a Communist, one-party, nonmarket state to a representative democracy well on its way to establishing a market economy.

By officially affirming that Hungary is successfully making a genuine and peaceful transition from Communist dictatorship to a Western market democracy, we will facilitate a speedy recovery from decades of Soviet occupation. I urge you to join me in sponsoring this legislation.

H.J. RES. —

Whereas Hungary—during its history of more than a thousand years—has enriched Western culture;

Whereas Hungary has displayed courage in preserving its integrity and defending its independence from foreign powers, including Nazi occupying forces;

Whereas the Soviet Union, contrary to its international obligations, occupied Hungarian territory in 1947, annihilated Hungarian sovereignty and arrested Hungary's attempts to rejoin the free world;

Whereas the Hungarian Communist Party seized power and created a one-party dictatorship by force in 1947-48—with active So-

viet intervention—by falsifying election results, and by presecuting and interning leading figures of democratic parties;

Whereas the Communist Party subverted Hungarian freedom through the use of fear and terror, the introduction of unprecedented measures of oppression, the taking of private property, and the denial of human rights—thus creating a Leninist-Stalinist dictatorship;

Whereas on October 23, 1956, the people of Hungary rose against this socialist dictatorship and illegal Soviet rule;

Whereas the revolution for freedom and independence was crushed by Soviet tanks in November 1956;

Whereas the military retaliation of the Soviet army and the collaborationist Kadar government murdered thousands of people, and caused 200,000 Hungarians to become refugees;

Whereas since 1968, economic reforms in Hungary have steadily opened greater freedom for private enterprise; and

Whereas the beginning of the 1970s brought the rebirth of the Hungarian democratic opposition;

Whereas mass demonstrations on March 15 and June 16, 1989, jointly organized by different opposition groups, have clearly illustrated the solidarity of the Hungarian people against socialist rule;

Whereas the joint efforts of the different democratic opposition groups have forced the Hungarian Communist Party to end its monopoly of power and to inaugurate Round Table discussions, which led to a peaceful transition to democracy and the dismantling of one-party rule in 1989;

Whereas at the Round Table discussions, the Communist Party agreed to hold free parliamentary elections, to disband its armed militia, and to amend the Constitution to provide for a pluralist democracy;

Whereas the overwhelming opposition of democratic forces has effectively ended the Communist Party's attempts to perpetuate its hold on power, and has succeeded in eliminating socialist hegemony;

Whereas on March 25 and April 8, 1990, free and fair parliamentary elections were held in Hungary, creating an authentically representative democracy;

Whereas at the elections the opposition achieved a victory of over 90%, while the successor of the former Communist party did not even reach the margin necessary to obtain representation in the Parliament, becoming instead an insignificant and peripheral political factor;

Whereas by tearing down the Iron Curtain and by opening its boundaries to East German fugitives, Hungary has promoted the cause of freedom in other Eastern European countries;

Whereas Hungary reestablished diplomatic relations with the State of Israel and is assisting Soviet Jews emigrate to Israel;

Whereas the new Hungarian government has freed all political prisoners, and rehabilitated both the living and the dead victims of socialist injustice and repression;

Whereas the Council of Europe has already accepted the Republic of Hungary in its midst as a genuinely democratic country;

Whereas the new Hungarian government is fully committed to the ideals of the free market, is in the process of reprivatizing institutions of the free world; and

Whereas Hungary, in seeking to regain its sovereignity, has agreed with the Soviet Union on the withdrawal of Soviet troops from Hungarian territory, and has begun its withdrawal from the Warsaw pact: Now, therefore, be it

Resolved That it is the sense of the United States Congress to recognize—

(1) that the Republic of Hungary has made the genuine and peaceful transition from an oppressive, authoritarian, one-party socialist dictatorship to Western democracy;

(2) that all political parties in the new, freely-elected Hungarian parliament are fully dedicated to the principles of human rights and free markets, and the government of the Republic of Hungary fully desires to integrate the country into the free world of nations;

(3) that the Republic of Hungary has renounced the hostile and confrontational military posture of the now-defunct Warsaw Pact; and

(4) that, based upon these findings, the United States Congress declares that upon the final withdrawal of Soviet troops from Hungarian territory, scheduled for June 1991, Hungary will have regained its freedom from outside domination and Soviet influence, and shall no longer be considered a socialist, one-party, non-market state, but a representative democracy.

HONORING CAPT. DEAN E. SLOAN

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SWIFT. Mr. Speaker, I rise to pay tribute to one of my constituents, Capt. Dean E. Sloan, who retires today from the U.S. Navy after 30 years of dedicated service. Captain Sloan is the embodiment of an American naval officer, faithfully serving his country both in times of conflict and in peace.

Captain Sloan began his naval career in 1961. Upon completing naval aviation school in Pensacola, FL, he was assigned to the VAW–13 squadron as an electronic countermeasures officer in the EA–1F aircraft and served a tour of duty in Vietnam.

In 1965, Captain Sloan left the cockpit and entered the classroom as a naval ROTC instructor at the University of Michigan. Following this tour, he served from 1968 through 1970 as the electronic warfare officer with Commander Carrier Division Four in Virginia Beach, VA. During this time he completed deployments aboard the USS *Independence* and the USS *Forrestal.* In 1970, he reported to the Fleet Anti-Air Warfare Training Center in Dam Neck, VA, as the training evaluation and analysis officer.

In 1972, Captain Sloan was assignd to the Tactical Electronic Warfare Squadron VAQ–129 at NAS Whidbey Island, WA. While at Whidbey, he served as maintenance and operations officer with VAQ–131, deployed aboard the USS *Constellation,* and as the electronic warfare training officer for the Commander Medium Attack Tactical Electronic Warfare Wing Pacific. In 1977, while still assiged at NAS Whidbey, Captain Sloan become the executive officer of the VAQ–136 squadron and later assumed the role of commanding officer of the VAQ–136 Gauntlets.

Captain Sloan continued his career in the Office of the Chief of Naval Operations as the electronic warfare projects officer. In 1982, Captain Sloan was chosen to attend the National War College and further developed his expertise in antiwarfare. Captain Sloan was then assigned to the Joint Chiefs of Staff where he served until 1986. Following this tour of duty, he reentered the classroom as the commanding officer of the naval NROTC unit at the University of Mississippi. Many of the young men and women who were members of this unit went on to serve in Operation Desert Storm. Captain Sloan is completing his career as the Assistant Chief of Staff for Recruit, Specified, Reserve and International Training at NAS Millington, TN.

Captain Sloan exemplifies the qualities we find most admirable in a member of our military forces—allegiance, high ideals, honor, compassion and a sense of duty. In addition, he is also a dedicated husband and father. In commending Captain Sloan for his years of service, I must also express my appreciation to his wife, Jeanne, who like thousands of military wives, rise to the challenge of military life with great aplomb. Theirs is truly a remarkable partnership.

I ask my colleagues in the House of Representatives to join me in congratulating Capt. Dean E. Sloan for his many years of dedicated service to his country. On this occasion it seems fitting to use the words of John F. Kennedy who said "Any man who may be asked what he did to make his life worthwhile can respond with a good deal of pride and satisfaction—I served in the United States Navy."

A TRIBUTE TO BERNICE GOLD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to bring Ms. Bernice Gold to the attention of the House of Representatives and the American public. Ms. Gold is a teacher at Leroy D. Feinberg Elementary in South Beach, and a truly inspiring individual who encourages her class to learn and have fun at the same time. She teaches her kids to fulfill their potentials and brings us hope for the future of our youth. In a recent issue of the Miami Herald, staff writer Aaron S. Rubin describes Ms. Gold's talent. The article follows:

Bernice Gold still gets as excited as her second-grade class at Leroy D. Feinberg Elementary in South Beach. After more than 30 years of teaching at the same school, each year brings something new.

"I couldn't do the same thing every year," said Gold, who lives in Miami Beach. "Each year is different. Each group is different. I'm different every year."

But elements of Gold's teaching have remained constant, even as Miami Beach has changed around her. Colleagues and students praise the soft-spoken teacher for her ability to stimulate her class to learn and achieve while having fun.

"She goes beyond the call of duty as a classroom teacher to provide all kinds of experiences for her children," said Rosa White, assistant principal. "She really brings out the best. It just surfaces."

Principal Menia Stone agreed.

"She's just plain magic," Stone said. "You can really see the gleam in her children's

eyes. They all want to be just what Mrs. Gold wants them to be."

This year, the class proudly proclaims they have become Biospherians—after the Biosphere, a project in the western United States to reproduce a pure Earth environment. Gold's classroom is decorated with projects, completely researched and created by students, that represent different earth habitats: a rain forest, a desert, even a working miniature volcano.

The class is also studying Miami Beach's Art Deco history and corresponding with children in Australia.

"This is where they learn to become a citizen—an interested, involved citizen—of the community, the country, the globe," Gold said.

The class has researched Antarctica and is investigating plans to change the environment on Mars.

"You have to be able to read and do math to function well in your community," Gold said. "Along the way, we learn."

The numerous projects in Gold's room—a self-described judge—help show students they can succeed, boosting their self-esteem. Gold's ideas stimulate further, independent research.

"I have nothing to do with any of this," Gold said. "I throw out the idea, and they take it from there."

Students say they appreciate Gold's approach.

"She teaches us many things that we should learn in college and high school," said Alex Del Pino, 8. "People who come into the class say, 'This is not the work of second-grade kids. This is the work of high school.' It makes us feel proud of ourselves that we're learning such things."

Stone, the principal, said Gold encourages the class to work together, not against each other.

"It's such a perfect, loving environment," Stone said. "They're all so actively involved. She doesn't raise her voice, she doesn't chastise the kids, yet it would kill them if they thought she was displeased with them."

The children respond to her style, Gold said. A gentle touch goes further than loud words or an intimidating presence.

"If you're screaming, you have no way to get somebody's attention," she told her class Thursday afternoon. "But if you're quiet and your voice goes up a little bit, people notice."

Ms. Bernice Gold is a truly remarkable person who makes the lives of our children a little easier. As the mother of two little girls and a south Florida resident, I understand the value of her work.

A TRIBUTE TO DOROTHY EARP

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to call attention to a shining example of a community servant. Dorothy Earp, of Belleville, IL, has been critical to southwestern Illinois in assisting the deployed troops of Desert Storm and their families.

Last October she started Desert Care to begin a program of sending care packages to the deployed troops. Then in February, she started Desert Homefront, a monetary fund which assists the families of troops who are still deployed. Despite her own husband, Air Force Sgt. Jonathon Earp, being sent to the gulf, she has dedicated her energy, ideas, and time to our armed services.

Because of her commitment, Dotti won the Full Time Employed Volunteer of the Year Award at Scott Air Force Base. In addition, Dotti finds time to work for the Illinois Vietnam Veterans Leadership Program helping to find employment for veterans in southwestern Illinois.

I ask my colleagues to join me today as I salute Dorothy Earp for her tremendous commitment to her community and her country.

ANTI-FORCED CHINESE LABOR ACT OF 1991

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. GILMAN. Mr. Speaker, I introduced two bills H.R. 2743, the Anti-Forced Labor Act of 1991, and H.R. 2744, legislation that gives companies and their unions the right to sue importers of forced labor goods for treble damages if they can prove injury. H.R. 2744 also requires importers to certify that PRC-origin goods are free of forced labor.

Mr. Speaker, Asia Watch recently stated in a report entitled, "Prison Labor in China," that it has hard evidence which links prison labor in China to Chinese exports to this country. The report states:

The United States has long known that China used prison labor extensively in manufacturing and agriculture, yet there was no "smoking gun" to link prison labor to Chinese exports to this country. Now that smoking gun is available. The official Chinese documents attached demonstrate that the government of China is systematically exploiting the labor of prisoners to produce cheap products for export—and specifically targeting the United States, West Germany and Japan. The documents show conclusively that Chinese government officials * * * who have consistently denied that China exports prison-made goods, have been deliberately lying. It is time to apply the letter of U.S. law to China and prohibit the importation of prison-made products.

I am deeply concerned that by importing goods made in these camps our Nation is inadvertently playing a supportive role in their existence. Pro-democracy demonstrators who stood up and risked their lives for ideals we hold so dear, are forced to toil in unspeakable conditions with no pay in these camps. Asia Watch reports that what is happening there is basically slavery:

Millions of those who have served out their sentences since 1945 remain in the Chinese gulag as a captive labor force as a result of the "forcible retention" policy.

The Asia Watch report goes on to state:

Most chilling of all, other articles [Chinese government documents] * * * confirm that it is common practice in China for labor reform camp prisoners to be forcibly and indefinitely retained as workers after they have completed their sentences so that export-oriented productivity will not be diminished by their departure from the system. As one contributor to the confidential labor reform journal notes in the April 1989 issue (p.11): "Time-served prisoners retained for in-camp employment* * * cannot join labor unions, do not enjoy retirement benefits when they become old, and their wages and living standards are low.

However, let us give credit where credit is due and commend them for running efficient businesses where nothing goes wasted. As a front page article in the June 3, 1991 New York Times points out, kidney transplants are being offered at the Eastern China Military Region Main Hospital in Nanjing for the cut-rate fee of $12,800.

Dr. M.K. Chan, a prominent Hong Kong renal specialist who is among the small number of doctors here who have referred patients to the mainland for the operations, said: "Almost all kidneys transplanted in China come from executed prisoners. That's the main source * * *.

For these and other reasons I introduced H.R. 2743 and H.R. 2744. I hope that these bills sever our ties to the concentration camps in China and I urge my colleagues to support them. Mr. Speaker I request that both H.R. 2743 and H.R. 2744 be printed in full at this point in the RECORD.

H.R. 2744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF ARTICLES USING FORCED LABOR.

(a) IN GENERAL.—Notwithstanding any other provision of law, no product, growth, or manufactured article of the People's Republic of China shall enter or be imported into the United States unless—

(1) the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") determines that such product, growth, or manufactured article is not the product, growth, or manufacture of forced labor; and

(2) such determination is based on consultations described in subsection (b) and a certification submitted to the Secretary in accordance with subsection (c).

(b) RIGHT OF INSPECTION AND CONSULTATION.—The United States shall use all diplomatic efforts to persuade the People's Republic of China to permit representatives of international humanitarian and intergovernmental organizations, such as the International Labor Organization and the International Committee of the Red Cross, to periodically inspect all camps, prisons, and other facilities holding detainees and the Secretary shall consult with representatives of such organizations to assure that products of the People's Republic of China which are for export are not being produced with the use of forced labor.

(c) CERTIFICATION.—The Secretary shall prescribe the form and content of the certification (including documentation) for submission in connection with any product, growth, or manufactured article of the People's Republic of China that satisfies the Secretary that the importer has taken steps to ensure that such product was not produced, grown, or manufactured with the use of forced labor.

(d) PENALTIES.—

(1) UNLAWFUL ACTS.—It is unlawful to—

(A) bring or import into the United States any product or article if such importation is prohibited under subsection (a), or

(B) make a false certification under subsection (c).

(2) CIVIL PENALTIES.—Any person or entity who violates paragraph (1) shall be subject to a civil penalty of—

(A) not more than $10,000 for the first violation,

(B) not more than $100,000 for the second violation, and

(C) not more than $1,000,000 for more than two violations.

(3) CONSTRUCTION.—Except as provided in paragraph (2), the unlawful acts described in paragraph (1) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1581 through 1641).

(e) DEFINITIONS.—For purposes of this section:

(1) FORCED LABOR.—The term "forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

(2) PRODUCT, GROWTH, OR MANUFACTURED ARTICLE.—A product, growth, or manufactured article shall be treated as being a product, growth, or manufacture of forced labor if—

(A) The article was fabricated, assembled, or processed, in whole or in part;

(B) contains any part that was fabricated, assembled, or processed in whole or in part; or

(C) was grown, harvested, mined, quarried, pumped, or extracted,

with the use of forced labor.

(3) ENTER OR BE IMPORTED.—The term "enter or be imported" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

H.R. 2743

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Forced Labor Act of 1991".

SEC. 2. AMENDMENT TO TARIFF ACT OF 1930.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended to read as follows:

"SEC. 307. PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.

"(a) FINDINGS AND POLICY.—(1) The Congress finds that—

"(A) some states in the international community employ various forms of convict labor, forced labor, indentured labor, and involuntary labor;

"(B) these forms of labor are used for several purposes, including political coercion, education or punishment, economic development, labor discipline, or racial, social, national, or religious discrimination;

"(C) goods, wares, articles, and resources produced or extracted by these forms of labor are exported, directly or indirectly, to other states in the international community, including the United States;

"(D) the use of forced or compulsory labor constitutes disrespect for basic human rights and fundamental freedoms, as set forth in the Universal Declaration of Human Rights, the Charter of the United Nations, and other international covenants;

"(E) the Universal Declaration of Human Rights recognizes the 'right to work, to free choice of employment, to just and favorable conditions of work' and prohibits slavery and the slave trade 'in all their forms';

"(F) the United States, as a sovereign state in the international community, has pledged itself to protect and defend human rights within its territory and to protect and promote human rights, including the rights of individuals, to be free from forced labor and involuntary servitude, throughout the world; and

"(G) this commitment to human rights, generally, and to the termination of forced labor and involuntary servitude, specifically, is consistent with the basic principles on which the United States was founded, as embodied in such documents as the Declaration of Independence and the Bill of Rights, with the prohibition against slavery in the Thirteenth Amendment to the Constitution of the United States, and with the historical traditions of the United States as a humanitarian nation; and

"(H) the Senate demonstrated the commitment of the United States to the termination of forced labor and involuntary servitude on May 14, 1991, when the Senate gave its advice and consent to the ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105), adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

(b) It is the policy of the United States to—

"(A) take measures, to the maximum extent practicable, to protect the rights of individuals to be free from forced labor and involuntary servitude;

"(B) enable the citizens of the United States to be free from unknowingly supporting or subsidizing the policies of states in the international community which employ forced labor and involuntary servitude; and

"(C) deny United States economic support, by consumer purchase, investment, lending, or otherwise, to states in the international community which use forced labor.

"(b) PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.—(1)(A) Except as provided in paragraph (2), no prohibited products shall be entitled to entry at any of the ports of the United States, and the importation or the transportation in interstate commerce thereof is hereby prohibited.

"(B) The Secretary of the Treasury shall prescribe such regulations as may be necessary for the enforcement of this subsection.

"(2) The provisions of paragraph (1) shall not apply to items vital to national security.

"(3) No United States national or any person subject to the jurisdiction of the United States may invest in, or make loans to, a foreign joint venture involving the use of forced labor.

"(4) For purposes of this subsection—

"(A) the term 'forced labor' means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily;

"(B) the term 'prohibited product' means any goods, wares, articles, merchandise, natural resources and services produced, mined, extracted, manufactured or provided wholly or in part in any foreign country by forced labor; and

"(C) the term 'United States national' means—

"(i) a natural person who is a citizen of the United States; and

"(ii) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

"(c) PENALTIES.—(1) With respect to any violation of paragraph (1) or (3) of subsection (b), an order under this section shall require the person or entity to pay a civil penalty of—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person or entity previously subject to one order under this section; or

"(C) $1,000,000 in the case of a person or entity previously subject to more than one order under this section.

"(2)(A) Before imposing an order described in paragraph (1) against a person or entity for a violation of paragraph (3) of subsection (b), the Secretary of the Treasury shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

"(B) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

"(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated paragraph (1) or (3) of subsection (b), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

"(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

"(4) A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(5) If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(d) ENFORCEMENT BY PRIVATE PERSONS.—(1) The prohibitions contained in section 403 may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within 1 year after plaintiff obtains knowledge of the alleged violation of subsection (b)(1)(A) has occurred, or reasonably

should have obtained knowledge, except that the court shall continue such civil base brought pursuant to this section from time to time before bringing it to trial if an administrative hearing pursuant to subsection (c)(2) has commenced and is being diligently conducted so as to reach an expeditious conclusion.

"(2)(A) Except as provided in paragraph (3)—

"(i) any person to whom any prohibited product has been offered for purchase or in reasonable likelihood will be offered for purchase, or

"(ii) any public interest group or human rights organization,

may commence a civil suit on behalf of that person, group, or organization—

"(I) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the 11th Amendment to the Constitution), who is alleged to be in violation of any provision of this title or regulation issued under the authority of this title;

"(II) to compel the Secretary of the Treasury to enforce, pursuant to paragraphs (1) and (3) of subsection (b), the penalties set forth in or authorized pursuant to subsection (c); or

"(III) against the Secretary of the Treasury where there is an alleged failure of the Secretary to perform any act or duty under paragraph (1) and (3) of subsection (b) which is not discretionary with the Secretary.

"(B) The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, or to order the Secretary to perform such act or duty, as the case may be.

"(3) No action may be commenced under paragraph (2)(A)(3)—

"(A) prior to 60 days after written notice of the violation has been given to the Secretary, and to any alleged violator of this title or any regulation issued hereunder;

"(B) if the Secretary of the Treasury has commenced an action to impose a penalty pursuant to section 404 of this section; or

"(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or State to address a violation of any such provision or regulations.

"(e) TREBLE DAMAGES.—Any person in competition with a person importing or transporting items, or investing or loaning funds, in violation of paragraph (1) or (3) of subsection (b), who is injured as a result of such violation, may bring an action in a court of the United States and shall recover three-fold the amount of the damages sustained by such violation.".

SEC. 3. REPEALS.

Sections 1761 and 1762 of title 18, United States Code, are repealed.

THE FAILURE OF MARITIME SUBSIDIES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. BEREUTER. Mr. Speaker, the U.S. maritime industry has been the beneficiary of huge subsidies for a very long period—for at least 55 years. The Congressional Budget Office reported that last year, the U.S. maritime industry was the beneficiary of $1.05 billion in Federal subsidies. This $1.05 billion, in large part, went to four companies.

Approximately $150 million of this subsidy directly reduced the aid the United States provides to starving people of the world through the Public Law 480 Food Aid Program. The remainder of the $1.05 billion comes in the form of operating subsidies, Jones Act subsidies, and other preferential treatment programs that serve to increase consumer costs—by increasing the cost to ship products purchased by consumers—as well as directly increase the taxpayer burden.

In spite of this aid, the number of privately owned, U.S.-flagged vessels declined from 1,170 to 368 over the past 30 years. Certainly, the $1.05 billion in Federal subsidies has done nothing to "save" the U.S. maritime industry. A June 25, 1991, editorial from the Journal of Commerce illustrates well the failure of the Federal operating subsidy program to build a strong merchant marine.

It is certainly appropriate then that this subsidy program die a rightful death and stop the obviously ineffective use of taxpayer funds. The end of the operational subsidy program also provides an important opportunity for the Congress, if it so chooses, to develop a useful and effective program to build a strong merchant marine. A sound and workable program could also end the many types of cargo preference that provide hundreds of millions in support to four multimillion-dollar shipping companies at the expense of those least able to pay, the mid- to low-income consumers in the United States and the poor and starving that live in the poorest of the poor countries of the world.

This Member submits the following editorial for the RECORD:

NO MORE SUBSIDIES

Maritime subsidies don't work. When the Bush administration delivered that simple message to Congress last week, it marked the end of the government's decade-long effort to reshape the 55-year old aid program for U.S. carriers. It's now time for the government to take the next step and scrap the numbing rules that inhibit U.S. operators from adapting their services to meet customer needs.

Intended to foster a healthy and competitive U.S. merchant marine, operating subsidies have failed utterly to accomplish that end. The administration's new position, advanced by Maritime Administrator Warren Leback, is to let the current subsidy program expire without revising or expanding it. There is every good reason to follow that suggestion.

When Mr. Leback told the House merchant marine subcommittee that government subsidies "have not worked," he was understating the case. The government pays operating subsidies to four companies—$261 million has been requested this year—to offset the lower labor costs of foreign operators and help U.S. lines compete internationally. Yet over the last 30 years, the number of privately owned U.S.-flag vessels has declined from 1,170 to 368. U.S. seafaring jobs plummetted 47% during the 1980s. Meanwhile, operating costs, crew costs, shipbuilding costs and the cost of finance all are higher in the United States than in most other countries. A business culture built on government dependency has not succeeded.

Subsidies are paid under 20-year contracts, all of which expire within the next decade. The administration should honor those contracts for vessels already under subsidy; scrapping them any sooner would be impractical and unfair. The more immediate dilemma for subsidized carriers, however, is that the economic lives of some vessels will expire before the contracts run out.

By law, a company may receive subsidy for newly acquired vessels only if they were built in U.S. shipyards. Yet high domestic construction costs make that unrealistic. Mr. Leback has suggested that U.S. subsidized carriers be permitted to replace their older vessels with foreign-built ships and still retain subsidy. He is half right. American-owned carriers should be free to buy vessels from wherever they choose but, as part of the subsidy phase-out, those ships should not receive government support payments.

The government can help in other ways. Normally, a vessel older than 25 years automatically loses its subsidy, even if a company's subsidy contract has not expired. If subsidized carriers choose to keep vessels more than 25 years, the government should waive the age rule and allow the vessel to remain subsidized until the contract expires.

The government also should consider allowing U.S. international carriers to use foreign seamen to fill some of their crew requirements, as some European nations do.

Most important for U.S. carriers is the freedom to change routes and ports of call without regulatory delays. U.S. carriers, in exchange for subsidies, must now beg the Maritime Administration to make what should be routine service adjustments. Responding quickly to customer demands would be an enormous competitive help to U.S. carriers.

As the price for operating subsidies, the U.S. merchant marine has endured endless restrictions on where ships can be built, who may pay for them, how they are crewed and where they may operate. Subsidies are not worth that price.

ADEQUATE FIRE PROTECTION FOR CONTRA COSTA COUNTY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MILLER of California. Mr. Speaker, today I am introducing legislation to ensure that Contra Costa County residents receive adequate fire protection. This bill would allow the Riverview Fire Protection District serving the cities of Pittsburg and Antioch, as well as other areas in Contra Costa County, CA, to construct a fire station on approximately 1 acre of land near Camp Stoneman.

Under a deed the city signed with the Department of the Interior, the land may only be used for park purposes. This legislation would amend the deed restriction and allow the city of Pittsburg to permit the construction of a fire station on the property.

One of the fastest growing counties in California, Contra Costa has witnessed an increase in new housing and recreational facilities. Yet, fire protection facilities are lacking. This legislation would help correct the problem by allowing a fire station to be constructed close to homes and shopping centers. According to the city of Pittsburg, the 1 acre of land

affected in this legislation is ideally suited for a fire station.

Mr. Speaker, I encourage my colleagues to join me in supporting this legislation.

LEGISLATION TO END FEDERAL PAY DISCRIMINATION IN CALIFORNIA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to introduce legislation that will bring an immediate end to Federal employee pay discrimination in Santa Barbara County, CA.

For those colleagues of mine who are unfamiliar with the 19th District of California, it was split in half by the 8-percent interim geographical pay increase granted by the President this winter. As a component of the Los Angeles consolidated metropolitan statistical area [CMSA], Ventura County received an 8-percent pay increase. Santa Barbara County, although it is one of the most expensive areas in the country, was not included.

As a result of the 8-percent pay increase for the neighboring Los Angeles CMSA, Federal employees—and entire offices—are transferring from Santa Barbara to the neighboring Los Angeles CMSA. New hiring has virtually stopped. Santa Barbara County now has the severest recruitment and retention problem in the country.

My legislation would grant all Santa Barbara Federal employees the same interim pay increases enjoyed by those stationed in the Los Angeles CMSA.

Because of grossly inaccurate and incomplete Bureau of Labor Statistics [BLS] wage surveys and outdated metropolitan statistical area [MSA] boundaries, Santa Barbara County was denied an 8-percent interim pay increase. Currently, the BLS only collects wage data for clerical personnel, electronic data processors, skilled maintenance employees, and unskilled plant workers. In other words, wage grade [WG] employees. Yet this same data is used to determine the pay disparity between General Schedule [GS] employees and their private sector counterparts.

According to the BLS, the pay disparity in Santa Barbara is not severe enough to warrant an interim pay increase. The Wall Street Journal, however, recently rated Santa Barbara as the sixth most expensive city in the country to conduct business.

In addition, the Federal Government incorrectly considers Santa Barbara County to be economically and geographically distinct from the Los Angeles area. The Office of Management and Budget [OMB], using 1980 census data as their guide, determined during the early 1980's that Santa Barbara County should not be included in the Los Angeles CMSA. The dramatic growth of the past decade in California—the same growth which has brought seven new congressional seats to the State—has drastically changed Santa Barbara County. Both labor and living costs have skyrocketed because of Santa Barbara's proximity to Los Angeles.

In short, the 8-percent interim pay increase granted to the Los Angeles CMSA has greatly exacerbated the already severe pay disparity in Santa Barbara. Until this tremendous pay disparity between Santa Barbara and Los Angeles is resolved, Federal workers and the valuable services they provide will continue to pour out of the area.

I urge my colleagues to help resolve this critical problem by cosponsoring my legislation.

RIO GRANDE DEL NORTE NATIONAL CONSERVATION AREA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. RICHARDSON. Mr. Speaker, today, I am introducing legislation to establish the Rio Grande Del Norte National Conservation area in northern New Mexico. The Rio Grande Del Norte area contains a unique blend of cultural influence by Native American people, descendents of Spanish settlers, and Anglo residents. In addition to cultural resources, the area is magnificently endowed with natural resources.

The lifeblood of this part of New Mexico is the Rio Grande river, which was among the first rivers in the Nation to get congressional protection under the Federal Wild and Scenic Rivers Act. The area includes biologically diverse plant and wildlife, geological and archaeological resources, as well as recreational and educational values.

The native American tribes in the area, especially the Taos and Picuris Pueblos and the Tewa Pueblos to the south have long used lands within the boundaries of the conservation area for habitation, hunting, fishing, livestock grazing, medicinal, and religious purposes, many of which continue to the present. Spanish citizens began colonizing the area about 400 years ago, and their descendants retain much of their language and traditions, including traditional uses of the land such as livestock grazing and fuelwood harvesting. Anglos and other people have been drawn to this area for decades by its immense cultural and natural beauty.

Late last year, the Interior Subcommittee on Oversight and Investigations held a field hearing in Taos, NM, to hear testimony on how to preserve and protect the unique resources of this area while allowing traditional uses of the land to continue. Many of my constituents, as well as State and Federal agencies, expressed strong support for establishing a national conservation area to achieve this balance.

I formed a citizens committee to develop through consensus recommendations on how best to establish a national conservation area [NCA] in northern New Mexico. The committee, appropriately call the Rio Grande National Conservation Area Committee, was comprised of a cross section of interests in northern New Mexico.

The team was led by Bobby Ortega, a councillor with the Village of Questa, NM. Michelle Chavez, the Area Manager of the Taos Resource area of the Bureau of Land Management, served as agency liason. Other members included: Estevan Arellano, a reporter with the Taos News, Jim Bones of the Rio Grande Alliance, Van Beacham of Los Rios Anglers, Richard Deertrack of Taos Pueblo, Lawrence Gallegos, mayor of the Village of Questa, Mary Humphrey of Amigos Bravos, Steve Miller of the New Mexico River Outfitters Association, Sally Ranney of American Wildlands, Bill Reed of the National Wildlife Federation, Gilbert Sanchez of Pilar, NM, Tod Stevenson, N.M. Department of Game and Fish, Roberto Vigil of Concerned Citizens del Norte, and Geoff Webb of the New Mexico State Land Office. Alan Hoffmeister of the Bureau of Land Management served as facilitator, and proceedings were recorded by John Bailey and Chuck Schultz, also from the Bureau of Land Management.

This committee worked very hard to develop recommendations on how best to protect and preserve the important cultural and natural resources of the area. While they did not reach agreement on all of the issues involved, their hard work resulted in consensus on many of them, providing a framework from which to work in establishing the legislation I am introducing today, the Rio Grande Del Norte NCA.

This legislation will designate approximately 385,000 acres as a National Conservation Area, broken down as follows: BLM lands, 259,000 acres; U.S. Forest Service lands, 9,000 acres; New Mexico State lands, 55,000 acres; and private lands, 62,000 acres.

The proposed NCA will be managed by the Bureau of Land Management and the U.S. Forest Service, who will cooperatively develop a general management plan for the area. The plan will address the management of recreational uses of the Rio Grande river, a transportation plan providing effective access to areas in the NCA, an interpretation and educational program, fuelwood harvests, law enforcement, native American uses of the NCA, cultural and archaeological resources, wildlife habitat, and wilderness study areas.

The bill also includes provisions that withdraw the Rio Grande river corridor from mining activity, as well as provisions that respect and preserve the rights of native Americans in the area. Uses essential to the surrounding communities, such as grazing, hunting, trapping, and fishing will be allowed to continue.

In addition, the bill establishes two interpretive and educational centers to provide for public interpretation and education of the biological, geological, and tri-cultural significance of the conservation area. It also requires studies of the area to determine its suitability as a biosphere reserve, the feasibility of establishing a research institute, a water quality study, and evaluations of sections of Embudo Creek and Rio San Antonio Creek for possible wild and scenic designation.

The bill also establishes the Rio Grande del Norte Conservation Area Advisory Committee, which will consist of 15 members reflecting the board cross section of interests impacted by the establishment of the NCA. The committee will advise the Secretary of Interior on the preparation and implementation of the general management plan.

Mr. Speaker, this legislation not only addresses the need to preserve and protect a

unique area of the State of New Mexico, but a way of life that has withstood the test of time. I urge my colleagues to join me in this effort.

THE SURRENDER OF PABLO ESCOBAR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. GILMAN. Mr. Speaker, on Wednesday, June 19, 1991 the world's most infamous drug trafficker surrender is to Government officials in Colombia. Pablo Escobar, the leader of the world's largest illicit narcotic trafficking organization—the Medellin Cartel—surrendered on conditions that would make any fugitive rush to surrender, and might encourage some innocent people to admit to crimes they never committed.

Mr. Speaker, Pablo Escobar is being jailed in a luxury prison that more closely resembles a hotel in which he can relax, watch TV, stroll the grounds which overlook his hometown of Envigado, and receive unlimited visits by his mother, and the mayor of the Envigado, Mario Rodriguez. The jail also serves as the "University of Peace," where by studying law, Escobar can reduce his sentence by a least 2 years. Escobar's sentence is expected to be set at between 4 and 10 years.

Mr. Speaker, this is an outrageous betrayal by the Colombian Government of all those who have lost their lives at the hands of this one drug trafficker. Pablo Escobar is single-handedly responsible for the assassination of hundreds of judges, newspaper editors, security officials, and politicians. He is also largely responsible for the misery of drug abuse in each and every one of our cities in the United States. His cartel is the source of much of the drug-related violence that occurs all over the world—from the small towns in Middle America, to the streets of London, Paris, and Tokyo, to Medellin, Colombia.

Mr. Speaker, Pablo Escobar is a ruthless, murderous criminal who should be treated as such. His surrender would be welcome if it could be believed that the world would be saved from his lethal trading and dealing; but, regretably this will probably not occur. Pablo Escobar will probably be able to freely continue to operate his illicit business from the plush accommodations in his mountain-top jail. The terms of Escobar's imprisonment offer no incentives for this man to reform. This is not punishment for his extensive crimes.

Mr. Spreaker, I would like to submit for the RECORD several articles and editorials that have appeared recently in newspapers across our Nation. The American people feel betrayed and demand, as some of us in the Congress do, in calling for stricter and sterner treatment for this ruthless drug kingpin:

[From the Miami Herald, June 18, 1991]

POLICE SAY ESCOBAR PLANS TO OVERSEE DRUG TRADE FROM COLOMBIAN PRISON

(By Ana Arana)

BOGOTA, COLOMBIA.—Drug trafficker Pablo Escobar, who has promised to surrender in the next few days, has left in place an infrastructure to continue his business from prison and a military force to strike at the government in case he is betrayed, according to law enforcement sources.

If he surrenders, Escobar will follow the steps of Fabio, Juan David and Jorge Luis Ochoa, his former associates who surrendered a few months ago and have continued a successful trafficking business from their jail cells, police sources said.

For Escobar, continuation of the drug business will pay to sustain his private army, they said.

Judging from intercepted correspondence between Escobar and his henchmen, law enforcement sources estimate that Escobar still has an army of 120 men who themselves command between 50 to 200 other gunmen.

A lawyer in contact with the Medellin Cartel confirmed that Escobar is leaving an army in place and that the recent escape from jail of three suspected gunmen was related to Escobar's idea of forming an effective army to leave behind.

Escobar's lawyers met this week with government judicial representatives, apparently to work out final details of the drug lord's surrender. But Western diplomats, U.S. officials and Colombian police question whether he actually will surrender by June 5, as he promised last week.

"Escobar would want to know exactly what he is going to get," a Western diplomat said. "He might want to wait until the Constituent Assembly meeting ends in July," he added.

A special assembly that is rewriting Colombia's Constitution plans to ban extradition of Colombians and could restructure the government's judicial system, and do away with secret judges for drug-trafficking cases.

Government officials are pleased with Escobar's decision to surrender.

But as the surrender of Escobar becomes more imminent, foreign and Colombian law enforcement sources say the government policy does not guarantee that traffickers do not continue their business from jail.

The Ochoa brothers, for example, surrendered last December and January. In March, however, they celebrated the successful smuggling of 14 tons of cocaine into Spain, police said.

The brothers have denied the trafficking charges.

The Ochoas have been able to continue their work unabated because they wrested from the government a guarantee to pick their own security at the jail in the town of Itagui, law enforcement sources said.

Guards inside the prison are approved by the prisoners, according to police. Because the Ochoas fear that Colombian law enforcement officers would try to harm them, police officers guard only the outside of the prison.

Escobar also is requesting a jail in the municipality of Envigado, a suburb of Medellin, a city in which he exercises a great deal of control.

[From the Washington Times, June 21, 1991]

U.S. AGENTS SAY ESCOBAR MAY KEEP RUNNING CARTEL

(By Michael Hedges)

The surrender in Colombia of Pablo Escobar, perhaps the world's most notorious cocaine smuggler, has symbolic value but probably won't stop the outlaw from continuing to run his empire, experts said.

"Escobar is now incarcerated in a Monty Hall-type program," said Thomas Cash, special agent in charge of the Drug Enforcement Administration's Miami office. "It was strictly 'Let's Make a Deal.' I have reason to believe that when you select a prison in your own town, one you helped build, nothing will change."

Escobar surrendered in his home town, Envigado, after a change in the Colombian constitution that would bar his extradition to the United States. He is now housed in a special jail prepared for his surrender to await trial.

It is unlikely that he will ever face justice on nine indictments in the United States, including the case against Panama's ousted ruler, Gen. Manuel Antonio Noriega. Escobar is charged with murder and drug smuggling.

"None of those indictments or the evidence in the cases is going into the shredder," Mr. Cash said. "We will just have to let the plan unfold."

For the past five years the United States has sought the extradition of Escobar, but political changes in Colombia, including the legitimization of the Marxist M-19 party that had denounced the U.S.-Colombian extradition treaty, made that possibility increasingly unlikely, experts said.

One of those indictments charged Escobar with ordering the murder of Barry Seal, a government witness against him who was machine-gunned to death by three Colombians in Baton Rouge, La., in 1986.

Dick Gregorie, former deputy U.S. attorney in Miami who prepared the first U.S. indictment of Escobar, said yesterday: "I got a call early in the week from Barry Seal's widow and she was literally in tears. I'm disturbed about what has happened because I thought it was important to make that case."

Escobar, 41, was the head of the Medellin cartel, a group of cocaine smugglers who had waged war on the Colombian justice system and press while selling as much as 80 percent of all the cocaine entering the United States.

He has been charged with crimes ranging from complicity in the Aug. 18, 1989, murder of presidential candidate Sen. Luis Carlos Galan to ordering the bombing of a Colombian airliner, in which 106 persons died.

But in recent years the bloodshed generated by the Medellin gang's assassination tactics had turned the Colombian public against them, and the cartel went into decline. Mr. Cash and other U.S. experts said yesterday that another cartel based in the city of Cali is now more powerful.

The Colombians were optimistic about what the surrender of Escobar symbolized. "I think the cartel is already out of business. All the main leaders of the cartel are behind bars. And I think this is the ending of the cartel of Medellin," Colombian President Cesar Gaviria said Wednesday. "I trust this is the end of narcoterrorism in Colombia."

But Colombian Attorney General Juan Sepulveda said: "Escobar surrenders, but many Pablo Escobars remain. Drug trafficking does not stop with the surrender of Escobar. The business will go on as long as it continues to be a profitable, illicit activity."

White House spokesman Sean Walsh said Wednesday that the United States wants Escobar brought to justice. "Obviously, we would like to see him brought to justice in the United States, but if he can be brought to justice and receive appropriate punishment in Colombia, we welcome it," he said.

U.S. officials privately make clear they expect Escobar to get a stiff prison sentence and will be closely watching the outcome of Escobar's trial. Colombian news reports say Escobar could be sentenced to between four and 10 years in jail.

For now he is housed in a facility that boasts three huge bedrooms with walk-in

closets and private baths, a soccer field, a game room, lawns, and a panoramic view of the Medellin valley.

U.S. Justice Department officials said the Colombian govenment has been supplied with copies of the evidence in the Barry Seal murder. "It is not clear if that means that will become part of the case against him, but they have the evidence," an official said.

Mr. Cash said whatever sentence is eventually imposed may be largely meaningless. "If Pablo Escobar was at Marion federal prison, I'd have a great deal of confidence that he would not be able to control his 4,000-man empire. We are not opening any champagne over his incarceration in the Colombian jail," he said.

[From the New York Times, June 21, 1991]

DRUG BARON'S PRISON HAS EVERY COMFORT: EVEN MOM AND TV

(By James Brooke)

ENVIGADO, COLOMBIA, June.—On Pablo Escobar Gaviria's first night in jail, the Mayor of this city stopped by to watch television with him.

"We watched all the news shows and had a good laugh at the way they were presenting it," said the Mayor, José Mario Rodriguez, referring to the surrender on Wednesday of Mr. Escobar, the country's most-wanted drug trafficker.

The Mayor's chumminess with Mr. Escobar may be explained by the fact that Envigado's wealthiest native son has showered the town with good works: a stadium, a hospital and street lighting. With the highest per-capita city budget in Colombia, Envigado offers amenities unheard of elsewhere: unemployment insurance, health insurance, 350 rent-free apartments for poor families, 1,500 weekly food baskets for poor families, 2,500 lunches for school-children and 10,000 scholarships for grade school, high school and university students.

VISITS FROM MOTHER

Mayor Rodriguez has denied that Mr. Escobar's cocaine syndicate, based in nearby Medellin, pays for many of the benefits. But Colombia's Government believes otherwise. In 1989, Envigado was one of a handful of towns occupied by the army during a nationwide crackdown on trafficking.

In addition to the Mayor, the cocaine trafficker's mother, Herminda Gaviria de Escobar, enjoys free access to the jail, which was built to his specifications during negotiations with the Government over the terms of his surrender. The negotiations produced a detailed contract governing who can be in the prison.

Asked whether the trafficker controls his jail, President César Gaviri-Trujillo said in an interview on Thrusday: "Escobar won't control who comes and goes. The Government has control."

POLICE, KEEP OUT

But on Thursday, army guards turned back five members of Colombia's anti-narcotics police and two directors of a prison in neighboring Medellin. Under a contract negotiated my Mr. Escobar's lawyers, police officers and soldier are only allowed into the prison in the event of a riot.

The group he fears most is the Medellin police, 400 of whom were killed after Mr. Escobar announced that he would pay a bounty of $2,000 for every dead officer.

Internal guard duty is performed by 40 guards who are carefully screened by the trafficker's allies in this city. Outside guard duty is performed by 150 soldiers. To preclude assassination attempts by inmates, every new prisoner must be approved by a "security committee" which is influenced by the trafficers.

ROADS AND AIRSPACE SECURED

Mr. Escobar, who recently terrorized Colombia with car bombs, has chosen a remote Andean refuge that is virtually impregnable to car bombs. Sole access is by a steep, one-lane dirt road that is passable only by four-wheel drive vehicles. One mile below the prison, a steel barrier blocks further road access. From their mountain perch, Mr. Escobar's guards can watch through their binoculars any vehicles laboring up the mountain road.

In recent years, Mr. Escobar lost several valued employees to attacks by helicopter-borne police forces, and he apparently fears more aerial attacks. Civil aviation authorities have closed the airspace over the jail, and the trafficker is reported to have demanded a radar system and steel roofs.

Prison doors swing open easily for the Rev. Rafael Garcia Herreros, a Roman Catholic priest who mediated the trafficker's surrender.

Next week, Father Garcia plans to come here to hear Mr. Escobar's confession and to bless a small chapel that the trafficker's mother has built in town. In the past, Catholic authorities in Medellin have been reluctant to consecrate churches that may have been built with money from cocaine trafficking.

Arguing that humanitarian considerations demand that Colombians serve jail sentences close to their families. Father Garcia has started a campaign to repatriate the thousands of Colombians serving jail sentences in the United States.

The 81-year-old priest told reporters on Thursday that he plans to travel to the United States soon in an attempt to win repatriation of Carlos Lehder. Mr. Lehder, once a Medellin cartel leader, is now serving a 135-year sentence in an Illinois jail for cocaine trafficking.

The priest proposed a prison alternative for Mr. Escobar, a low-income housing project in Bogotá. "If the inhabitants of Minuto de Dios allow me," Father Garcia said, "I'm thinking of inviting him to live with us, to serve his sentence here."

It is unlikely that Mr. Escobar would trade the security and family warmth he now enjoys in his hometown prison for a row house in Bogotá. Today, his brother, Roberto, and another fugitive, Gustavo González Flores, entered the prison, bringing the total of Medellin cartel members there to seven.

[From the Miami Herald, June 21, 1991]

STUDIES MAY CUT ESCOBAR SENTENCE JAIL TO BE "UNIVERSITY OF PEACE"

(By Ann Arana)

BOGOTA, COLOMBIA.—Pablo Escobar's jail will function as a "University of Peace," where Escobar will be able to ease at least two years from his sentence by studying law, said the Rev. Rafael Garcia-Herreros, the 84-year-old priest who helped negotiate the drug trafficker's surrender.

Garcia-Herreros said Thursday that the books and desks for the "University of Peace" were expected any time at Escobar's high-security jail in Envigado.

Reporters stationed along the road that leads to the jail reported the arrival Thursday afternoon of several women with their faces covered and vehicles carrying color televisions and electrical applicances for the jail.

Two more members of the Medellin Cartel surrendered Thursday in Envigado. The two are not major figures, but one was identified as Valentin de Jesus Taborda Echeverria, alias "the cashier."

Taborda Echeverria, 53, reportedly was involved in the kidnapping of former Bogota Mayor Andres Pastrana Arango in 1988.

Three cartel enforcers surrendered Wednesday: Otoniel Gonzalez Franco, known as "Otto," John Jairo Velasquez Vasquez, "Popeye," and Carlos Aguilar Gallego, "El Mugre" (the grimy one). The three were responsible for many bombings and assassinations ordered by Escobar when former President Virgilio Barco ordered an all-out push against drug gangs, according to judicial sources.

Escobar said that 12 more men will surrender in the next few days to serve as the drug kingpin's internal jail guard, Radio Caracol said.

Justice Minister Jaime Garaldo Angel told Caracol Thursday that Escobar would serve about eight years in jail, if he is receives reduced sentences in exchanges for having surrendered and confessed to crimes, good behavior and for studying in jail. According to Colombian law, maximum jail terms are 30 years.

The justice minister also said Colombia was working toward repatriating several Colombians who are serving jail terms in other countries. According to Giraldo, 50 Colombians who have served one-third of their sentences in Mexico will be repatriated next week.

Garcia-Herreros has expressed interest in a campaign to bring back former Medellin cartel member Carlos Lehder, who is serving a life sentence at a federal prison in Illinois.

The priest has been nominated for the Nobel Peace Prize for his mediation efforts with Escobar's surrender.

Wednesday night and Thursday, Colombia media were concerned about the international reaction to Escobar's surrender, especially responses from the United States. Government officials and other politicians who supported the government policy to entice the surrender of traffickers in Colombia emphasized that Colombia cannot fight drug trafficking alone.

U.S. drug control director Bob Martinez raised questions Thurdsay about the surrender in an interview on ABC's Good Morning America.

"What kind of sentencing will take place? Is this going to be Pablo's hacienda or is it going to be a real prison?" Martinez asked. "Are the barbed wires out there to keep people out so he can do business, or is it to incarcerate him so he can't do business?

U.S. officials, however, say there is no question of reprisals against Colombia for granting immunity from extradition to drug traffickers. They say Washington is committed to sending evidence to help Colombian courts convict them.

[From the Miami Herald, June 21, 1991]

PRISONER PABLO ESCOBAR

Does the surrender of Pablo Escobar, multibillionaire head of Colombia's Medellin Cartel, mean that President Cesar Gaviria has won the jackpot on which he has bet his administration? Or does it mean that crime does pay, pay fabulously, because Colombia punishes murder and mayhem with a feather duster?

It means a bit of both, actually.

First off, President Gaviria—who defended his drug-cartel policy in two recent visits with The Herald's Editorial Board—clearly represents the wishes of the overwhelming majority of Colombians.

Simply put, Colombians are sick unto death of cartel bombings, kidnappings, and threats. Many see their nation as torn asunder by mindless violence that to them is America's fault, not theirs. Without Americans' insatiable lust for cocaine, they reason, the cartels would not exist, much less be rich enough to corrupt Colombia's institutions, and powerful and pitiless enough to kill anyone whom they could not corrupt.

President Gaviria's policy, then, is as understandable as the grass-roots support that underlies it. In formulating it, he reversed the courageous policy of total war and extradition declared on the cartels by his predecessor, President Virgilio Barco.

But understandable does not mean wise. Nor does it yet mean successful. If Mr. Gaviria's policy in fact brings peace to Colombia, if it stops the killing of judges and police and journalists and political candidates, then no doubt it will be proclaimed wise.

Proclamations are premature just now, though. Especially President Gaviria's proclamation of Escobar's surrender as "an historic victory in the war on drugs." Victory? Truce, perhaps. But Victory?

Where is the victory in letting one of the world's most violent, corruptive criminals escape prosecution for his heinous crimes to serve a mere five-year sentence for lesser offenses? But not in prison, of course. Oh, no. Escobar's version of Devil's Island is a former drug-rehabilitation center (how ironic!) outside Medellin. He has outfitted it with every luxury—and his own acolytes as his guards. There, "hard labor" means playing soccer on Escobar's private field.

President Gaviria's critics allege that Escobar plans to continue masterminding the Medellin Cartel from his "jail." What's to deter him? Not the fear of extradition: That disappeared when, simultaneously with his surrender on Wednesday, an assembly rewriting the Colombian Constitution voted tentatively to ban extradition.

America's big stick thus is broken. To break the cartels once and for all, America must first break its own big snort.

[From the New York Times, June 21, 1991]

SURRENDER IN COLOMBIA

Colombian officials hail the surrender of Pablo Escobar, the infamous leader of the Medellin drug cartel, as the beginning of a new era of domestic tranquillity. But celebrations are premature. Colombia's President, César Gaviria Trujillo, must first persuade the world that the arrest is more than a momentary triumph—and that he and his Government are truly serious about fighting drugs.

The hunt for Pablo Escobar began in earnest in 1989 after the assassination of a presidential candidate, Luis Carlos Galán. Colombian authorities pressed a campaign against drug traffickers, destroying their laboratories, seizing their property and arresting those they could find. But top leaders like Pablo Escobar avoided capture.

When Mr. Gaviria took office last year, he announced a new policy. If traffickers agreed to surrender and confess to a crime, Colombia would spare them what they feared the most: extradition to the United States. Instead, Colombia would strengthen its judiciary and prosecute the drug barons at home. A number of traffickers responded, culminating in the Escobar surrender this week.

His decision apparently reflects his fear that the police would kill him on the spot. He also faced additional threats from rival cartels and guerrilla groups he once considered allies.

As a result, he insisted that he be confined to special quarters where the security measures are designed as much to keep assassins out as to keep him in.

Colombia's willingness to negotiate such matters properly raises questions: How effective is the new Colombian judiciary and can it prosecute Mr. Escobar seriously? Will he be sentenced to more than a token term? Will he be prevented from conducting business from prison? And will the authorities move to strip him of the assets—land, money, airplanes—that sustain his power?

Without reassuring answers, Pablo Escobar's surrender of freedom may end in Mr. Gaviria's surrender of credibility.

[From the Washington Post, June 24, 1991]

WHO SURRENDERED?

Pablo Escobar's bloody two-year campaign against extradition to the United States was waged not just to stay in Colombia close to the source of his power. The thought of standing trial in the United States, where he faced numerous indictments for drug trafficking and murder, led him and his Medellin cocaine cartel henchmen to wreak havoc on his country. Their motto, "Better a tomb in Colombia than a prison cell in the United States," sparked a wave of assassinations, terrorism, bombings, and kidnappings. Violence eventually became a function of the threat of extradition, and Colombians lost heart. Some fear the Colombian government has, too.

Colombian president Cesar Gaviria's offer to suspend extradition and reduce the sentences of drug traffickers who surrender and confess was accepted by Mr. Escobar and two top lieutenants on Wednesday. He was joined on Friday by his chief deputy and brother, Roberto. More of his gang are expected to surrender and join him in the customized jail. They delayed turning themselves in, however, until a special assembly went one step further and wrote an extradition ban into the Colombian constitution. For all practical purposes, Pablo Escobar, while not home free, is home-bound. He is housed in a custom-built prison on a hilltop near his hometown of Envigado. Denying press reports to the contrary, the Colombian government insists that the facility is austere, with no more conveniences than those found in most U.S. prisons. The New York Times reports that the town mayor stopped by to watch TV with him on his first night in jail.

The charge that they gave away too much is not well received in Colombia, where Mr. Escobar's surrender is hailed as a major victory for the government. With Pablo Escobar off the scene and others from the inner circle either killed or in jail, the Medellin drug cartel's leadership has been effectively dismantled, they argue. But it is too soon to say who has won. Now that the Colombian judicial system has him, the question is what will be done with him? Having decided to protect international criminals like Pablo Escobar and other cocaine drug barons from the application of justice in the United States and other countries they have victimized, Colombians bear the heavy burden of proving that their judicial system is strong enough to ensure that justice will be done.

[From the New York Times, June 24, 1991]

ESCOBAR'S GILDED CAGE

(By Peter B. Bensinger)

CHICAGO.—The so-called surrender of Pablo Escobar Gaviria in Colombia on Wednesday is not only the surrender of the world's biggest drug dealer but also the surrender of justice by the U.S. and Colombia.

Mr. Escobar was the head of the Medellin cartel, the world's biggest cocaine ring, and the chief of a deadly terrorist organization. But when the Colombian Government, under the leadership of President Cesar Gaviria Trujillo, enacted a law last week banning the extradition of criminals, Mr. Escobar turned himself in, free from prosecution in the U.S.

Mr. Escobar should be on death row, not in a posh mountain retreat, built to his specifications and overlooking his hometown of Envigado. Colombian Presidential candidates, a justice minister, an attorney general, police officers, an editor of a leading newspaper, drug agency informants and innocent civilians have been killed under Mr. Escobar's direction, and he should be tried for these crimes. He faces nine separate indictments in the U.S. in four different Federal court jurisdictions.

The State Department regrets Colombia's decision. What baloney (other worlds come to mind). What would it say if a foreign country broke a treaty obligation or sent spies into the U.S. or threatened U.S. citizens abroad? This action was shocking; it is not a surprise. For months we have heard about Mr. Escobar turning himself in for a light sentence and no extradition. The U.S. should have made it clear that such a deal was unacceptable. Narcotics agents all over the world put their lives on the line to put criminals like Mr. Escobar behind bars. The Administration and the drug czar, Bob Martinez, should back them up.

The U.S. cannot look the other way. Five people a day die in this country from cocaine overdose. Dozens more are killed daily as a result of cocaine-related violence, millions are addicted—their lives and futures destroyed by drugs provided by Mr. Escobar's empire.

I have seen the violence spawned by Mr. Escobar's cartel: police officers murdered throughout the U.S.; our agents killed in Colombia and elsewhere. It is a sad duty to preside at funerals and to console grieving widows and children.

Who represented these people when the deal was made to let Mr. Escobar retire quietly at 41? Mr. Escobar has made billions from his vicious attacks on law and justice. Has his property been seized, his assets forfeited, his organization been destroyed, his future put at risk behind an electrified 18-foot fence? Does Mr. Escobar's punishment fit his crimes? We have spent billions on our drug control effort, but when the target presents itself, we cave in. Mr. Escobar is safe, but we are not.

For the world's No. 1 drug dealer to set his own terms, to pick his own jail suite and his own jailers is an outrage. When the biggest criminal writes the laws, it's a travesty of justice for Colombia and the world. We looked the other way instead of preventing the disaster.

How can we dream of winning the drug war when the opposition sets the terms and calls the shots?

RESTORING OUR FIRST FREEDOM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SOLARZ. Mr. Speaker, yesterday, I reintroduced the Religious Freedom Restoration Act of 1991. This legislation will reverse the disastrous effects of a dastardly and

unprovoked attack on our first freedom by the Supreme Court of the United States.

On April 17, 1990, the Supreme Court dealt a devastating blow to religious freedom in the United States. In the case of Oregon Employment Division versus Smith, a majority of the Justices virtually eliminated the first amendment's requirement that Government accommodate the religious practices of all Americans unless it can demonstrate that the burden imposed is the least restrictive means available to achieve a compelling state interest.

With the stroke of a pen, the Supreme Court virtually removed religious freedom—our first freedom—from the Bill of Rights.

We have always accommodated religion, even when religious practices have conflicted with important national priorities. We have allowed the Amish to withdraw their children from compulsory education. We have allowed the use of wine in religious ceremonies during Prohibition. We have allowed deferments from conscription to accommodate religious pacificism even in times of war.

We have been strengthened rather than weakened as a nation by this remarkable record of accommodation. Yet Justice Scalia, writing for the Court, called this outstanding and uniquely American tradition of religious tolerance a luxury we can no longer afford.

The Religious Freedom Restoration Act would simply prohibit the Government from burdening a person's free exercise of religion, even if that burden results from a rule of general applicability, unless it can demonstrate that the governmental action is essential to further a compelling governmental interest and that it is the least restrictive means of furthering that compelling governmental interest.

While the Congress cannot alter the Supreme Court's interpretation of the Bill of Rights by statute, we can decide to accommodate the religious rights of all Americans beyond the Court's narrow reading of the first amendment. Even Mr. Justice Scalia, writing for the majority in Smith, recognized the right of legislatures to accommodate the free exercise of religion beyond what is required by the Court's interpretation of the Bill of Rights.

This legislation has the narrow purpose of restoring the compelling interest test, as enunciated nearly 30 years ago in Sherbert versus Verner and again in Wisconsin versus Yoder. The test strikes an appropriate balance between the needs of the majority and the rights of religious minorities. It would provide a claim or defense to persons whose religious exercise is burdened by Government.

The bill does not attempt to dictate the result in any particular case. Rather, it returns to the courts the role of engaging in this delicate balancing test. It is a rejection of Justice Scalia's attempt to turn our first freedom over to the will of political majorities.

As Mr. Justice Jackson so eloquently put it in West Virginia Board of Education versus Barnette:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections.

The Court's reading of the first amendment in Smith is out of step with the Nation and with our historical commitment to religious liberty.

America cannot afford to lose its first freedom—the freedom not just to believe but to act according to the dictates of one's religious faith—free from the restrictions of governmental regulation or interference.

Religious freedom is the foundation of our way of life. This Nation has always provided a haven for refugees from religious persecution. We are Americans because those who came before us voted for freedom with their feet. My family, like many of yours, came to America to worship freely. Even today, Jews from the Soviet Union, Buddhists from Southeast Asia, Catholics from Northern Ireland, Bahais from Iran, and many more willingly renounce their homelands and risk their lives for the luxury of religious freedom.

The Court's grievous and shortsighted error must not be permitted to stand unchallenged. That is why 41 of my colleagues and I have introduced the Religious Freedom Restoration Act. This legislation will simply restore the legal standard for protecting religious freedom that worked so well for more than a generation.

The broad and diverse support this legislation has already drawn from within both the Congress and the religious and civil rights communities demonstrates how fundamental religious freedom is to our way of life.

It is fair to say that support for this bill is ecumenical, both religiously and politically.The diversity of this coalition reflects the diversity of this Nation. That diversity has always made America strong, and will, I believe, guarantee swift passage of this important legislation.

AMERICA HAS LOST A CHAMPION OF JUSTICE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. TOWNS. Mr. Speaker, today marks a sad day in America and for the champions of freedom, justice, and equality throughout the world. Supreme Court Justice Thurgood Marshall has announced his resignation from the highest court in the land, leaving an unequaled legacy of judicial activism, compassion, and fairness. As the first and only black Supreme Court Justice, his departure from the Court leaves an enormous void which demands that this institution step forward to protect those statutes which he struggled so hard to create, first as counsel and later as a jurist of unimpeachable commitment to the most basic of human and civil rights.

We, the members of the Congressional Black Caucus recognize that replacing Justice Marshall with a suitably qualified candidate will be difficult. We commend for consideration only that this person meet the standard which Thurgood Marshall has set. Perhaps the greatest testimony to that vision of the law is reflected in Justice Marshall's address before the 1966 White House Conference on Civil Rights where he stated:

> I will attempt no assessment of how far we have come and what is left to be done. Clearly, there remains a great deal of work in translating into concrete reality the rights already won, and new tools must still be forged. That is the goal of the proposed Civil Rights Act of 1966. There are, however, some lessons for the future in the history of the struggle for Negro rights.
>
> What is striking to me is the importance of law in determining the condition of the Negro. He was effectively enslaved, not by brute force, but by a law which declared him a chattel of his master, who was given a legal right to recapture him, even in free territory. He was emancipated by law, and then disfranchised and segregated by law. And, finally, he is winning equality by law.
>
> Of course, law—whether embodied in acts of Congress or judicial decisions—is, in some measure a response to national opinion, and, of course, non-legal, even illegal events, can significantly affect the development of the law. But I submit that the history of the Negro demonstrates the importance of getting rid of hostile laws and seeking the security of new friendly laws. Provided there is a determination to enforce it, law can change things for the better. There is very little truth in the old refrain that one cannot legislate equality. Laws not only provide concrete benefits; they can even change the hearts of men—some men, anyway—for good or evil. Certainly, I think the history I have just traced makes it clear that the hearts of men do not change of themselves.
>
> Of course, I don't mean to exaggerate the force of law. Evasion, intimidation, violence, may sometimes defeat the best of laws. But, to an important degree, they, too, can effectively be legislated against. The simple fact is that most people will obey the law. And some at least will be converted by it. What is more, the Negro himself will more readily acquiesce in his lot unless he has a legally recognized claim to a better life. I think the Segregation decision of 1954 probably did more than anything else to awaken the Negro from his apathy to demanding his right to equality.
>
> It seems to me that the experience under the recent public accommodations law and the Voting Rights Act of 1965 proves the point. Of course there have been resistance and evasion and intimidation in both cases. But it must have surprised the cynics that so many restaurants in fact desegregated in obedience to the law and, more so, that so many Negroes in Alabama and elsewhere are actually voting less than a year after the Voting Act was passed.
>
> I do not suggest a complacent reliance on the self-executing force of existing laws. On the contrary, I advocate more laws and stronger laws. And the passage of such laws requires untiring efforts.
>
> Just as Supreme Court decisions on the "White Primary," "Restrictive Covenants," and school segregation provided the impetus for the stepped-up protests of Negroes, we must use the present tools—not as an end, but, rather as additional incentive to restudy and renew our drive toward ending the gap between theory and practice.
>
> Moreover, laws have only limited effect if they are not vigorously enforced. What I do say is that faith in the efficacy of laws. Perhaps that is because I am a lawyer and not a missionary. But I think history—which proves so many things—proves me right.

OPENING OF THE 10TH ANNUAL "AN ARTISTIC DISCOVERY" EXHIBITION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. WEISS. Mr. Speaker, as chairman of the congressional arts caucus, it was my great pleasure today to participate in the opening ceremonies of "An Artistic Discovery"—the congressional high school art competition and exhibition. This year, 249 congressional districts participated in the competition. These winning works will hang in the Cannon corridor to the Capitol until May of next year.

Over the past decade, nearly 2,500 local contests have been conducted which have involved more than 375,000 high school students.

With 140 students and their families in Washington to celebrate the opening—as well as many participating Members, staff, Speaker THOMAS S. FOLEY, Minority Leader ROBERT H. MICHEL and other special guests—this year's festivities were truly a celebration.

I submit my opening comments in honor of the event to be printed in the RECORD.

STATEMENT OF HON. TED WEISS

It is wonderful to stand before you today to pay honor to the winners of "An Artistic Discovery"—the tenth annual high school art competition. These young artists epitomize the excellence in education and in the arts which America can take such great pride in.

For what has now been a decade, Members of Congress have sponsored high school art competitions in their districts, bringing together talented young people, arts educators, families and local business and community leaders. Each year, we in the Capitol are treated to a panorama of outstanding artworks. The thousands of visitors who view these works are simply dumbstruck that the art was created by high school students. Each of us are overwhelmed not only by the talent contained in the works, but by the vision and humanity which they express.

Congress can truly be proud of this bipartisan effort to recognize and encourage the arts and education throughout the country. But, we must do more. We must ensure that every student in every school has the opportunity to learn and to grow from arts programs. For these are the programs which teach our students self-expression, understanding, discipline, and creativity.

There are a countless number of people who have worked hard to make "An Artistic Discovery" such a success. certainly the 249 Members of Congress and their staffs who participated this year. We are also grateful to George White, the Architect of the Capitol and his staff in facilitating this professional exhibit. Also, we would like to recognize General Motors for providing both resources and guidance for the past eight years. We are also honored to have two of America's most popular and talented young actors, Elisabeth Shue and William Baldwin, who have graciously come to Washington to help open the exhibit.

Finally, and most importantly, we wish to thank the students, the artists. It is they who we celebrate, they who we respect, and they who have contributed to the vitality of our Nation's culture.

FEDERAL EARTHQUAKE INSURANCE AS A MECHANISM FOR INCREASING EARTHQUAKE PREPAREDNESS THROUGHOUT THE NATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. BROWN. Mr. Speaker, in October 1989 the United States got a strong reminder of the ever-present threat of major urban earthquakes, when the Loma Prieta earthquake caused 62 deaths, severe social and economic disruption, and billions of dollars in damage to the San Francisco Bay region. Forty States, in addition to California, are susceptible to damaging earthquakes. Some of these earthquakes will unquestionably dwarf the Loma Prieta quake in terms of size and extent of destruction. The question is this: will we be prepared?

Over the past three decades I have spoken on this floor dozens of times in support of Federal programs to increase earthquake preparedness not just in California, but throughout the Nation. Fortunately, severe earthquakes in the United States are an infrequent occurrence, but this also means that we in Congress tend to be overly complacent about the threat that earthquakes pose both to our citizens and to our economy.

For this reason, I am very pleased that my colleagues AL SWIFT, whose State of Washington has recently been identified as a potential site of catastrophic earthquakes, today introduced a bill that would create a Federal earthquake insurance program. Although I have some substantive disagreement with the methods proposed in this legislation, I am in support of the overall goal of the bill, which is to boost earthquake preparedness on a nationwide basis. For this reason, I am an original cosponsor of Mr. SWIFT's legislation. Congress needs to pursue the issue of earthquake insurance energetically and comprehensively before the next catastrophic earthquake strikes.

During the last Congress, both Mr. SWIFT and I introduced Federal earthquake insurance legislation. Our approaches were quite different, and represented, on the one hand, our personal history of involvement with this issue, and on the other, our shared concern over the potentially disastrous consequences of major urban earthquakes.

Mr. SWIFT's bill focused on the importance of creating the largest possible pool of homeowner participants in the insurance program, in order to create the largest possible Federal fund to pay out claims, and to offer the broadest possible financial protection for American homowners as well as the insurance industry.

My own approach, which reflects my longtime involvement with the National Earthquake Hazards Reduction Program, was predicated on the need for communities to adopt and enforce building codes that would reduce earthquake damage and consequent social and economic disruption resulting from earthquakes. I proposed that insurance availability be contingent upon adoption of these earthquake hazard mitigation measures; thus the insurance program was in fact subservient to the mitigation program.

The bill that Mr. SWIFT introduced today maintains the approach that he supported last year. My decision to cosponsor this legislation reflects my desire to see meaningful Congressional scrutiny of this issue, and to remind my colleagues about the overall importance of earthquake preparedness. Last year, by introducing two distinct bills, we highlighted the different ways in which the problem of earthquake insurance and earthquake hazard mitigation could be approached. This year, by introducing a single bill, we hope to more efficiently move the legislation through Congress, with the clear expectation on my part that a proper balance between insurance sales and earthquake mitigation will emerge as the bill matures.

Thus, Mr. SWIFT's bill represents a compromise to the extent that we have settled on a single legislative vehicle—one that confronts the fundamental issue of urban earthquakes and their disastrous consequences. It does not, however, represent a final substantive compromise, because it is still, in its essence, a bill that focuses on selling insurance to the broadcast possible pool of homeowners. All the same, the overriding motivation here—to shield Americans from the disaster of a catastrophic urban earthquake—is shared equally by Mr. SWIFT and me.

Let me, for the record, briefly outline my concerns about the legislation that has been introduced. It does contain a mitigation component, and this is a step in the right direction, and it suggests several avenues for meaningful compromise. The bill as introduced requires States to adopt mitigation programs, but it does not yet include practical, effective measures for implementation and enforcement of these programs. Without enforcement, homeowners have no incentive to mitigate, especially if they know that their property is covered by Federal insurance. This has the effect of encouraging inadequate construction practices, thus increasing Federal liability for losses, and missing the opportunity to increase earthquake preparedness. We know, from our experience with the earthquakes that have struck California over the past two decades, that aggressive implementation and enforcement of earthquake hazard mitigation measures saves lives and money. We must apply this principle to other earthquake-prone areas of the Nation.

A second concern is that the proposed mitigation program would operate at a statewide level, whereas building codes and ordinances—the main source of mitigation—are locally adopted and enforced in most cases. Thus, the bill would require a whole new State-based structure for building code enforcement, whereas an adequate and reasonably efficient structure already exists at the community level throughout much of the Nation.

Third, the mitigation provisions in the new legislation would apply only to individual homes. The experience of the Loma Prieta earthquake, however, shows us that a great proportion of the disruption resulting from urban earthquakes is caused by damage to commercial structures, public facilities such as hospitals, schools, and fire stations, and life-

lines such as bridges, highways, electric power transmission lines, and water and sewage lines. There is no reason that mitigation provisions in a Federal insurance program cannot be applied to this whole spectrum of facilities and infrastructure, especially when the Federal government, in return, is accepting a burden of liability that had formerly been borne by the private sector.

Finally, we are still lacking much-needed quantitative analysis of the potential impact of a catastrophic urban earthquake on the insurance industry, the Federal government, and the national economy. The Federal Emergency Management Agency has just begun such an analysis, and the results of this study should provide important guidelines for any Federal earthquake insurance initiative. Until this analysis is completed, we cannot be sure to design an earthquake insurance program that serves the best interests of all Americans.

As the debate over earthquake insurance develops, we must not lose sight of our basic goal: to protect Americans from the potentially disastrous consequences of earthquakes. In recent years, earthquakes in Iran, Armenia, Mexico City, and elsewhere have shown us that a few seconds of shaking can shatter the lives of hundreds of thousands of human beings. The United States is not immune from such a disaster, and we must continue in our efforts to increase our level of preparedness. A Federal earthquake insurance program may offer an effective mechanism for doing so.

H.R. 2780

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ROYBAL. Mr. Speaker, one of every nine elderly Americans or 3 million people aged 65 and over are housed in our Nation's 300,000 nursing homes, board and care facilities, and mental institutions. Two decades of hearings and research by the House Select Committee on Aging and its Subcommittee on Health and Long-Term Care reveal that abuses—ranging from the denial of the right to make basic personal choices to horrid instances of physical and sexual abuse and neglect, sometimes resulting in death—are frequent occurrences nationwide.

Aging Committee research has also revealed that, in many States, the only active and effective advocate for elderly residents of institutions are State long-term care ombudsmen authorized under title III of the Older Americans Act. This program, however, is woefully underfunded by the Federal Government, and its work in some instances is administratively hampered in the States.

Elder abuse, neglect, and exploitation of elders living in the community is also rampant. After extensive national surveys and review of the literature, the committee found that this shocking type of abuse, often perpetrated in the home by family members, guardians, and other caretakers, touched the lives of 1 million seniors annually. Efforts to address this kind of abuse by State adult protective service programs have proved inadequate; the committee found that we need a Federal response similar to that which has proved so effective in reducing child abuse.

Yesterday I introduced legislation, H.R. 2780, the National Older Americans Advocacy and Protection Amendments of 1991, which will respond to these concerns. I was joined in this effort by my colleagues, the Honorable MATTHEW MARTINEZ, the Honorable MARY ROSE OAKAR, the Honorable RON WYDEN, the Honorable THOMAS DOWNEY and the Honorable DALE KILDEE. This legislation represents a bold step forward in quality, authority, and availablility of ombudsman services for long-term care facility residents, and addresses the evergrowing problems of elder abuse, neglect, and exploitation in both institutions and in the community.

The bill would strengthen the Federal role in providing national leadership to the long-term care ombudsman program, increases the effectiveness of long-term ombudsman activities, provide for greater autonomy and protection from conflicts of interest, and mandate better coverage of board and care residents to provide a consistent and timely response to serious problems affecting their rights and welfare.

To enhance the ability of long-term care ombudsmen to protect the rights of residents of board and care homes, the legislation calls upon the National Academy of Sciences, through the Institute of Medicine [IOM], to establish a National Commission on Board and Care Facility Quality similar to the IOM commission that recommended the current Federal regulatory structure for nursing homes. Composed of consumers and providers as well as other experts, the Commission would make recommendations to the Congress concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

This legislation would also create a National Center on Elder Abuse and provide grants for elder abuse prevention and treatment services in the community as well as in institutions.

The following is a summary of the major provisions in this legislation.

SUMMARY

STRENGTHENED FEDERAL ROLE IN THE LONG-TERM CARE OMBUDSMAN PROGRAM

State long-term care ombudsman programs vary greatly from State to State in their size and effectiveness. There has often been a lack of Federal leadership, oversight, coordination, and support for State ombudsman programs. State long-term care ombudsmen need an effective and visible advocate at the Federal level within the Administration on Aging.

This bill would establish within the Administration on Aging an Office of Long-Term Care Ombudsman headed by an Associate Commissioner for Ombudsman Services. The Associate Commissioner would perform the following duties: serve as the effective and visible advocate on behalf of older long-term care facility residents within the Department of Health and Human Services and other agencies of the Federal government; review and make recommendations regarding long-term care ombudsman provisions in State plans; provide leadership and coordination for the long-term care program nationwide; keep the Commissioner and the Secretary informed about the Ombudsman program; review existing and proposed laws relating to the Ombudsman program and make recommendations; coordinate relationships between the Administration on Aging and Federal, State, and local offices with respect to the Ombudsman program; and serve as a liaison with the Ombudsman Resource Center (continuation of the currently existing Ombudsman Resource Center would be mandated).

Both the Commissioner and Associate Commissioner would have the authority to hold hearings, take testimony, and issue subpoenas to investigate the operation or violation of Federal laws that are administered by the Department of Health and Human Services and adversely affect the health, safety, welfare, or rights of older individuals. The Commissioner or Associate Commissioner would refer suspected violations of State law to the appropriate authority in the State.

TIMELY RESPONSE TO COMPLAINTS AND INQUIRIES FROM LONG-TERM CARE RESIDENTS AND OTHERS CONCERNED ABOUT THEIR CARE

In many States the State long-term care ombudsman has had to attempt to handle all long-term care complaints personally without adequate support from local staff or volunteers. Complaints often go unaddressed for long periods.

The legislation would require that States set up a statewide program coordinated by the State long-term care ombudsman. Regular access by residents to the local long-term care ombudsmen and timely response to complaints are mandated.

OUTREACH, EDUCATION, AND EMPOWERMENT SERVICES FOR LONG-TERM CARE RESIDENTS AND THEIR FAMILIES

A recnt report by the U.S. Inspector General found that the most effective long-term care ombudsman programs were highly visible in the community. This legislation would ensure that all long-term care ombudsman programs have high visibility.

Long-term care ombudsman programs would do outreach to inform residents about ombudsman services and how to assert their rights. Long-term care ombudsmen would assist residents and their families in the development of skills which enable them to address needs on their own behalf. They would promote the development of citizen organizations and resident and family councils to protect the rights and well-being of residents.

IMPROVED ACCESS TO RESIDENTS FOR LONG-TERM CARE OMBUDSMAN

Long-term care ombudsmen have often found it difficult to see residents to investigate complaints, monitor the well-being of residents, and inform residents of their rights and how to assert them. The legislation would require immediate access to residents.

EXPANDED AUTHORITY FOR LONG LONG-TERM CARE OMBUDSMAN TO PURSUE ADVOCACY

The resolution of resident complaints often necessitates commenting on public policies, appealing administrative decisions, and legal action to obtain redress. Long-term care ombudsmen find it difficult to obtain needed legal services for many reasons, including the fact that many attorneys are unfamiliar with the legal problems of residents and attorneys must often go out to where the residents live.

The legislation would enlarge the long-term care ombudsman duties to include representing residents' interests before public

agencies and seeking administrative, legal and other actions to protect the rights and well-being of residents. The State agency responsible for the administration of the Older Americans Act in the State would have to ensure that adequate legal counsel were available to provide advice, consultation and legal services to the long-term care ombudsman office. The ombudsmen would also review and, if necessary, comment on existing or proposed laws, regulations and other governmental policies and actions that pertain to the rights and well-being of the residents of long-term care facilities.

STRENGTHENED CONFLICT OF INTEREST PROHIBITIONS WITHIN THE LONG-TERM CARE OMBUDSMAN PROGRAM

Long-term care ombudsmen would have greater autonomy and protection from political pressures in doing their job. Vigorous advocacy on behalf of residents can often anger some very powerful interests in the States and communities. In addition to imposing sanctions on any entity that interferes with the performance of ombudsmen duties or retaliates against residents, employees, or other complainants, States would be required to establish, and specify in writing, mechanisms to identify and remedy any conflicts of interest.

The legislation would prohibit long-term care ombudsmen, their representatives, their immediate families, and anyone involved in the designation of an ombudsman from having any financial, management, or employment interest in a long-term care facility. They would also be prohibited from any direct involvement in the licensing or certification of any long-term care facility or service.

INCREASED ACCOUNTABILITY OF THE LONG-TERM CARE OMBUDSMAN PROGRAM

To meet the need for greater accountability in the State and local long-term care ombudsman programs, several provisions are included in this legislation. The responsibilities of the ombudsman office are expanded and explicitly mandated. Reporting requirements are increased to make certain that problems encountered by the ombudsmen and proposed solutions are made known to policymakers and the public. Qualifications for the State ombudsman office are spelled out to ensure that the ombudsman has training or experience in working with long-term care residents and advocating on their behalf, program management, and dispute resolution techniques.

Local long-term care ombudsman offices are supposed to be subdivisions of the State long-term care ombudsman office, but there has often been a lack of clarity with regard to this important relationship. The legislation would provide that all those who provide long-term care ombudsmen services at the local level would have to be designated by the State long-term care ombudsman. Training would be required of all designated representatives of the ombudsman office.

PREVENTION AND TREATMENT OF ELDER ABUSE IN THE COMMUNITY AS WELL AS IN INSTITUTIONS

To further address the problem of elder abuse, in the community as well as in institutions, there would be established within the Administration on Aging a National Center on Elder Abuse. The Center would disseminate annually a summary of recently conducted research on elder abuse, neglect, and exploitation; develop an information clearinghouse; publish training materals; provide technical assistance to programs relating to the special problems of elder abuse; conduct research into the causes of elder abuse; and conduct studies of the incidence of elder abuse.

The Secretary of Health and Human Services, through the Center, is authorized to make grants to States, public agencies, or nonprofit organizations for elder abuse prevention and treatment programs.

INSTITUTE OF MEDICINE STUDY TO DEVELOP PROTECTIVE STANDARDS IN BOARD AND CARE HOMES

After a 10-year investigation, the Subcommittee on Health and Long-Term Care released a report in 1989 documenting the fact that the States do a miserable job of protecting the elderly and disabled residents of board and care homes. "Board and care" is the broad term used to describe facilities that provide shelter, food, and protection to frail and disabled individuals. Two Federal programs for the elderly and the disabled, Supplemental Security Income and Social Security, are the principal sources of payment for care in a board and care home.

The legislation would call upon the Institute of Medicine (IOM) to establish a National Commission on Board and Care Facility Quality similar to the IOM commission that recommended the current Federal regulatory structure for nursing homes. The Commission would be composed of both consumers and providers as well as other experts in the field. The Commission would recommend to the Congress uniform national standards to protect the rights of an estimated 1 million Americans currently residing in board and care homes and an estimated 3.2 million more of our citizens currently at risk for board and care placement.

I urge my colleagues on both sides of the aisle to join me in supporting this important legislation to protect the residents of our long-term care facilities and prevent the abuse, neglect, and exploitation of our elderly citizens.

RECALCITRANT CHINA: THE CONGRESSIONAL HUMAN RIGHTS CAUCUS DISCUSSES PRISON LABOR AND MFN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. LANTOS. Mr. Speaker, this month the United States House of Representatives will consider the President's request to extend most-favored-nation trading status for China. As we argue the merits of the administration's policy, we should do so fully cognizant of the facts. Those facts do not bode well for the President's policy. In fact, they show the President's China strategy for what it is: an unmitigated failure.

It is a sad irony that the President's call for MFN falls on the second anniversary of Beijing's vicious and bloody crackdown against peaceful prodemocratic demonstrators in Tiananmen Square. If that ugly episode was merely an anomaly, a deviation from an otherwise steady course charted by Chinese authorities toward a more open and democratic Chinese society, the President's approach would make more sense. It is clear, however, that Tiananmen Square was not an aberration.

Just last week, the congressional human rights caucus heard testimony on yet another outrage perpetrated by Chinese authorities: the widespread use of prison labor for the production of goods for export. Many prisoners arrested for crimes against the state or counterrevolutionary activity are forced to produce such goods under horrendous working and living conditions. Imagine: The shoes you are wearing may have been manufactured by a student arrested for his or her democratic activities.

Mr. Speaker, contrary to the President's policy, all evidence points to an increasingly recalcitrant China. In support of this assertion, I would like to submit the testimony of those participating in the congressional human rights caucus discussion of Chinese prison labor for the RECORD.

Mr. Speaker, I insert statements of the following individuals into the RECORD: Sidney Jones, the executive director of Asia Watch; and James V. Feinerman, associate professor at Georgetown University Law Center and editor in chief of China Law Reporter. The following statements speak to China's utter contempt for basic standards of human rights. I urge my colleagues to give their testimony the serious and thoughtful attention it deserves.

STATEMENT OF SIDNEY JONES

The production of export goods by Chinese prisoners has become a major human rights issue, focusing attention on the vast and inaccessible labor camp system in China, the people detained there, and the conditions under which they work. We should state at the outset that prison labor per se is not an abuse and the opportunity to work for pay while serving a sentence is actually a humane feature of many prison systems, including our own.

But we're concerned about the question of prison labor in China for several reasons. First, many of the prisoners producing export goods are sent to the camps without any judicial hearing whatsoever and others are forced to stay on after their sentences expire. And a significant proportion of the gulag inmates may be political dissidents, arrested for the crime of "counterrevolution."

A second concern is that working conditions inside these camps are reported to be poor, even dangerous, and in some cases, the prisoners get no remuneration whatsoever.

Last but not least, the importation of prison-made goods is against U.S. law. Let's take each of these factors in turn.

No one knows how many men, women and adolescents are detained in the Chinese laogai or labor camp network, or indeed, how many camps there are. Estimates of the total prison population in China, including labor camps, range from official Chinese government figures quoted by the State Department's annual human rights report of 1.1 million, some .5 percent of whom are political prisoners, to a figure of 16 million used by scholar Harry Wu, some 10 percent of whom may be political prisoners. Wu notes that some camps, such as Qinghai Province's No. 2 Labor Reform Detachment, may have a combined population of criminal and political prisoners of over 50,000 people.

Young people may also be inmates. The State Department report notes that in two labor camps near Beijing in 1990, there were 800 youths detained there for "hooliganism" during the 1989 demonstrations.

The gulf between official and independent sources on the prison population only underscores how difficult it is to obtain information when no international observers are allowed access to the camps. The official

"model prison" tour does not ordinarily include labor camps, and visitors to factories may be totally unaware that they are on the grounds of a labor camp. In one official document unearthed by Asia Watch, a factory manager says, "We made it an explicit rule that whenever foreign businessmen come to the workshops to inspect product samples, they must be accompanied by a special person * * *. Prisoners are not allowed to have direct contact or talk with foreign businessmen * * *."

The camps, officially known as "reform-through-labor enterprises," produce manufactured and agricultural products for export to 81 countries at far lower costs than regular state-owned enterprises. Some of the products include denim textiles, socks, marble tiles, T-shirts, valves, electric fans, engines, coal, wine, tea, furs and leather.

The people producing these goods fall into three categories: people sentenced by a court to "reform through labor;" people assigned without trial to these camps for "re-education through labor" for up to three years; and people forcibly and indefinitely retained as workers after the completion of their sentences so that export activity will not be diminished by their departure. The latter policy is most commonly applied against those considered "unrepentant." One government document found by Asia Watch even suggests that had the forcible retention of unrepentant detainees been more rigorously applied, the Tiananmen Square protests of 1989 would not have broken out.

Political dissidents may be found in all three categories, and Asia Watch believes that the anti-crime sweep that resulted in close to a million arrests between May and September 1990—and those are official figures—was closely linked to ongoing political repression, with "counterrevolutionaries" as much the target of the sweep as arsonists, murderers and robbers.

Many but by no means all of the labor camps which produce goods for export are located in the coastal provinces of Guangdong, Juangsu and Fujian. These areas in general have fewer "counterrevolutionary" prisoners than elsewhere in China but we know of several detained there, including Wang Xizhe, serving a 14-year sentence for writing articles and editing an unofficial journal during the 1979 Democracy Wall movement, and Luo Haixing, a Hong Kong resident who received a five-year sentence in March 1991 for trying, unsuccessfully, to help a key dissident leader and his wife flee China.

Many of the prisoners swept up in the recent anti-crime wave are believed to have been absorbed by labor reform farms, considered by the Chinese government to be the "foundation" of the labor reform economy.[1] These farms exist all over China, producing food grains, tea, fruit, poultry and eggs, meat and fish products. One document from late 1990 notes that the farms located in "frontier" areas face "grave economic difficulties" and have not been able to pay their employees for over a year.

Working conditions in the reform-through-labor enterprises are reported to be grim, exhausting and often dangerous. According to an official Chinese law journal, prisoners are sometimes assigned tasks such as handling explosives or performing blasting operations in open-pit mines. Prisoner medical services are either poor or non-existent. Food rations can be cut as a disciplinary measure or failure to meet production quotas, and prisoners who "resist reform" can receive physical punishment, including electric shocks and prolonged solitary confinement.

Some prisoners do receive payment for their work. But for others receiving a "strict regime" treatment, a policy called the "four cessations" applies: no visits, no personal money, no letters, no leisure activities. Official documents portray a harsh atmosphere inside the camps, even for ordinary prisoners. One labor camp official, noting the difficulties of export production, says, "Convicts working in a labor reform factory are not masters of the enterprise; they are criminals in society, and there is a negative, antagonistic and disruptive side to them. Faced with a serious task of foreign trade production, our mill has insisted on instilling in our cadre of police a sense of dictatorship and a sense of hardship, so they are constantly on the alert ***."

If concerns about conditions in the labor camps and who is forced to work there were not enough, the fact that some products are destined for the U.S. when the importation of prison-made goods is against U.S. law should set off alarm bells here. The Chinese government flaunts the use of prison labor as a way of increasing foreign exchange earnings, and it is clearly a central government policy rather than the opportunism of local officials, as recent government statements suggest.

One document obtained by Asia Watch dated October 1990, written by someone working in the Bureau of Labor Reform in the Ministry of Justice, states:

"The 1990's will be another decade of rapid growth for labor reform farming. At the Third Session of the Seventh National People's Congress, Premier Li Peng called on governments at all levels to give top priority to agriculture in their economic work ***. The labor reform farms must seize this opportunity and elevate labor reform farming to a higher plateau ***. The leadership of the judicial administration at all levels should lobby for special economic policies so as to create a relaxed and more lenient external environment for the labor reform farms."

The official goes on:

The Third Plenum of the party's 13th Central Committee made the decision to carry out rectification and readjustment while deepening the reforms. This is a grim challenge to the labor reform farms; it also offers an opportunity for growth ***. The labor reform farms should concentrate on perfecting the reform measures and coordinate them well. They must carry through those measures that have proved effective in the course of the decade of reform; at the same time they must *** further explore new avenues for reform on the condition that control of the prisoners is not jeopardized. Those measures and methods that help reform the prisoners and [at the same time] develop production should be continued.

A quote from the 1989 Yearbook of Local Historical Records of Shandong Province stands in marked contrast to the Chinese government's denials that prison-made goods are exported or attempts to exculpate the central government by blaming the practice on local officials:

[I]n 1988, the reform-through-labor production in Shandong earnestly carrying out the important strategic plan of the Party's Central Committee to speed up the economic development in the coastal regions, made a great effort to develop foreign-oriented economy by fully utilizing . . . Shandong's advantageous conditions in opening its doors to the outside world.

It is significant that when the U.S. consulate in Shanghai tried to visit the New Life Cotton Mill, a reform-through-labor enterprise named in the documents obtained by Asia Watch as exporting goods to the United States, it was told the bill was closed to foreigners.

The use of prison labor to produce goods for export is clearly central government policy, and it is clearly incumbent on the Bush administration to see that U.S. law banning such goods is not being violated. But it is also time that the Chinese government allowed international access to its vast network of prisons and labor camps to ascertain who is detained there and how they are treated. Placing conditions on Most Favored Nation status might help bring that about and give some measure of protection to the men and women in the Chinese gulag.

STATEMENT OF JAMES V. FEINERMAN

Mr. Chairman and Members of the Caucus: Thank you for holding these hearings and for providing an opportunity for me to present my views and to share information gathered on a recent visit to the People's Republic of China (PRC). The issue of extending Most-Favored-Nation (MFN) trade status for the PRC provides a focus for consideration of the importance of human rights concerns in formulating United States policy towards the PRC. Among the many issues regarding China's human rights practices which have been raised over the past two years since the Beijing Massacre in and around Tiananmen Square, the recurrent questions surrounding PRC use of prison labor to produce goods for export remain difficult to answer.

Despite the cloak of official secrecy and repeated denials by the Chinese government, it is now incontestable that prison labor has been, and continues to be, used to manufacture exports for markets where the most hard currency can be earned. While a few foreign venture partners may have been aware of these arrangements in the past, many more foreign investors in China have unwittingly been enticed by local government officials and unscrupulous middlemen into sourcing and supply arrangements which rely upon prison labor.

This cynical use of prison labor to generate export revenues provides just one of the many reasons for the United States to deny an extension of MFN—or, at the very least, to make extension conditional upon demonstrated improvements in the Chinese human rights regime. Moreover, such practices violate both the letter and the spirit of U.S. laws, especially Section 307 of the Tariff Act of 1930. Now that the United States is considering ratification of the International Labor Organization's Convention Against Forced Labor, it is particularly appropriate to denounce Chinese export of prison-made goods and to apply U.S. laws. In the long run, clear linkage of our trade and foreign policy to the promotion of human rights in China will serve the interests of the peoples of the United States and the PRC.

Today, I will briefly present an eyewitness account of export production by political prisoners in China and some additional background about Chinese government policies with respect to forced labor in several regions of the PRC.

First-hand Experience of Prison Labor Exports. In March, 1991, I was part of a delegation of the American Bar Association which visited Beijing and Shanghai for ten days to explore the present state of the Chinese legal

[1] Ye Yaojin, "The Past and Prospects of Labor Reform Farming", Theoretical Studies in Labor Reform and Labor Re-education, October 1990.

system and legal profession as well as certain obvious human rights concerns, particularly the trials of pro-democracy dissidents. While the delegation was in Shanghai, we visited the Shanghai Prison. At the delegation's request, as part of an overall tour of the prison, we were shown the ward where political prisoners were housed.

The "counter-revolutionary prisoners," as our Chinese hosts referred to them, were all held separately in a single cell block of the Shanghai prison. The prisoners were jailed in circumstances indistinguishable from those of the other cell blocks the delegation had visited. A number of names on the cell doors were prefixed by a red cross, but according to the wardens that merely meant that the occupant was "elderly" (over 60) and thus entitled to better food rations and an extra hour of rest each night. The inmates in this cell block had even produced a mimeographed newspaper with articles on Marxism-Leninism and poems and headed by a quote from the chief warden speaking at a meeting about how to deal with counter-revolutionaries. Most of the time the delegation was in the cell block, the prisoners were sitting on rows of benches watching Premier Li Peng give an opening address to the most recent session of the National People's Congress, China's rubber-stamp legislature. Two prisoners were designated to speak to the delegation; both of them were serving 8-to-10-year sentences for counter-revolutionary activities, and one of them was from Hong Kong. Many of the prisoners in this cell block seemed considerably older than the prisoners elsewhere in the prison; indeed, most of them were at least middle-aged.

As the delegation was about to leave the cell block, one of the delegation's members, Mary Curtin, noticed a large pile of cardboard cartons. She asked to see them, and the delegation discovered that these "counter-revolutionary prisoners" were folding cardboard four-pack cartons for a joint venture operation of Seagram's in a special industrial zone in Shanghai. The Deputy Warden and others became very agitated when Mrs. Curtin and others asked to take samples of these cartons away; they assured the delegation that these items never entered foreign commerce and that the work had been sub-contracted out to them by a middleman. They seemed clearly aware of the potential problem that would result from news of this discovery reaching a Western audience. In the end, the delegation left all the boxes behind. The product, in these boxes, was available for purchase—at least to the foreign community—in Shanghai; the Wellcome Supermarket in the Portman Hotel, where the delegation was housed, offered them for sale.

News of this discovery did eventually surface in several U.S. publications.[1] At that time, spokesmen for Seagram's joint venture in Shanghai, Shanghai Seagram, explained that the work on the packages had been contracted out by a third party without Seagram's knowledge. A Sino-Singaporean joint venture printing firm which was supposed to manufacture the cartons hired a local middleman who contracted for peasants and political prisoners to assemble the packaging. Seagram's claims that it has since instructed its packaging manager to fire the middleman and severed all ties with the Shanghai prison. Yet the convoluted arrangements for producing the cartons which eventually materialized demonstrate the pitfalls facing even those companies which intend to conduct their business in China with an honest regard for human rights concerns. They may not be able to keep track of the numerous conduits for transactions leading to the manufacture of a final product in China. Nonetheless, the importation of such products into the United States would be a clear violation of U.S. federal law; furthermore, emerging standards of human rights currently being codified in international conventions would make forced labor production of export goods illegal in all signatory countries. Finally, the guilty reaction of the Shanghai prison officials, along with the repeated denials of Chinese governmental spokesmen, reveal a uniform awareness on the part of China's leaders that such practices are unacceptable.[2]

China's Extensive Labor Reform Camp System. As Harry Wu has detailed in a recent aricle,[3] China compels criminals and other detailed citizens to work in various sorts of labor reform camps, all of which are economic enterprises in the PRC. The products of this forced labor is sold in the Chinese domestic market as well as on the international market. Responsible estimates of the number of people laboring under these circumstances in China range from 2–3 million to as many as 20 million. Each labor reform camp has two names: one used by the public security system, which is usually bureaucratically descriptive (e.g., No. 1 Prison, No. 12 Reeducation-Through-Labor Camp, etc.) and the other a name by which the camp is known to the general public as a production unit (*e.g.*, Qinghe Farm). The PRC government refers to such enterprise as "Special State-run Enterprises.

Various reports suggest that these enterprises are an important component of China's domestic economy, contributing substantial percentages of the national production of such important commodities as zinc, mercury, asbestos and even tea. More germane to the concerns of the Caucus, however, is the considerable evidence that forced labor may be employed in connection with export production and foreign investment enterprises operating within the PRC. For example, Sweden's Volvo Automobile Corporation was solicited by an overseas Chinese representative for the Chinese Labor Reform Bureau who offered to provide fully staffed factories, land for construction of new plants or "large numbers of criminals who already have received basic technical training as very cheap laborers on a lease basis." Volvo reportedly responded that it was not interested in any such arrangements.[4]

Evidence of PRC Government Policy to Promote Prison Exports. As has previously been documented by an Asia Watch report released in April of this year,[5] the PRC government is systematically exploiting the labor of prisoners in Chinese prisons, labor camps and other organs of criminal control to produce cheap manufactured exports. Journal articles published in restricted-circulation publications boast about the eager acceptance of foreign buyers who welcome the low-cost, high-quality products turned out by prison labor in Chinese labor reform enterprises. Such evidence puts the lie to official Chinese government statements over the past few months, in the face of mounting evidence produced by foreign visitors, that such exports are unauthorized or exceptional departures from central government policy by local enterprises.[6]

Reports from several regions in China now suggest just how widespread the policy to encourage prison labor exports is, how long it has been in place and how duplicitous Chinese spokesmen have been in denying the practices. A 1987 Yearbook for Shandong Province, in the Northeast,[7] a 1986 Yearbook for Yunnan Province, in the Southwest,[8] and a 1987 Yearbook for Guangxi Province, in the Southeast,[9] all document a concerted effort to produce exports and foreign currency profits from those exports by state-controlled reform-through-labor organs in widely separated regions of the PRC. The devastating impact of these policies on China's image abroad has led the Chinese leadership to respond, not by ending the policies, but rather by forbidding any further reportage on the use of prisoners to make export products.[10] According to informed persons, the central authorities have issued a confidential document, to be circulated only within the Communist Party to press organs in Beijing, ordering the domestic mass media in China not to report on prison labor exports, "so as not to allow Western countries to step up accusations and, at the same time, not to hurt China's image, which has not been good."

Conclusion. The overwhelming evidence supports contentions, long argued but previously lacking firm support, that the official policy of the PRC government is to use prison labor, including that of political prisoners, to produce goods for export to foreign markets. The import of such products into the United States violates existing federal legislation. In addition, such practices are another example of abuses of human rights which, when taken together and considered in their enormity, should disqualify the PRC from receiving Most-Favored-Nation status. At the very least, the United States Customs Service should heighten its scrutiny of imports from the PRC to determine that no products resulting from prison labor enter this country. Inspection of China's prisons and labor camps by U.S. officials and/or nongovernmental human rights monitoring organizations should be requested to determine the extent of China's current prison labor ex-

[1] *E.g.*, Lubman, "Chinese prison labor used on Seagram packs," San Francisco Examiner, Apr. 10, 1991, at 2; "China's Ugly Export Secret: Prison Labor," Business Week, Apr. 22, 1991, at 42.

[2] Letter of Chen Defu, Press Counselor, Chinese Embassy—Washington, New York Times, Oct. 5, 1990: "No products made in prison [in China] are exported." See also Song, "French Joint Venture Denies Using Slave Labor," China Daily, June 19, 1990, at 2 (denying report in the Financial Times, that a Sino-French joint venture winery bought grapes from a suburban Beijing "labor farm").

[3] Wu "Laogai: The Chinese Gulag," in Vol. II, Human Rights Tribune, No. 1, February 1991, at 3.

[4] Wu, supra note 3, at 4.

[5] Asia Watch, "Prison Labor in China," April 19, 1991.

[6] See e.g., XINHUA News Release, "Spokesman on U.S. Trade, Property Rights," 9 May 1991, reprinted in BFIS Daily Report: China, May 10, 1991, at 10, arguing: "Since China started to implement the policy of reform and opening to the outside world, its export-oriented economy has expanded greatly, and local and foreign trade enterprises now have great decisionmaking power."

[7] "Shadong Reports Reform-Through-Labor Exports," section reprinted in FBIS Daily Report: China, May 21, 1991, at 32 (14 projects with manufacturers and businessmen from the U.S., France, the Federal Republic of Germany, Japan and Belgium).

[8] "Yunnan Confirms Prison Camp Exports," section reprinted in FBIS Daily Report: China, May 17, 1991, at 22, ("Golden Horse" X195 diesel engines on sale in 13 foreign countries and regions).

[9] "Guangxi Reports Exports from Labor Camps," section reprinted in FBIS Daily Report: China, May 17, 1991, at 23 (diesel engines sold in Hong Kong, Australia and Southeast Asian countries; black tea sold in Britain and the U.S.).

[10] Hong Kong HSIN PAO [in Chinese], "Government Bans Reportage on Prison Labor," translated in FBIS Daily Report: China, May 24, 1991, at 20.

port industry and the efficacy of any announced attempts to curtail these abuses.

CLOSE THE ILLEGAL DRUG LAB LOOPHOLE: SUPPORT THE PRECURSOR CHEMICAL CONTROL ACT OF 1991

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. WYDEN. Mr. Speaker, there is a giant loophole in the Chemical Diversion Act which is allowing criminals to continue to manufacture methamphetamine and its smokable counterpart—ice.

Ephedrine is a key ingredient in the methamphetamine manufacturing process. In its liquid or powder form, it is a restricted chemical and transactions involving it are monitored by the Drug Enforcement Administration. However, ephedrine is exempted from DEA scrutiny and restriction in its capsule or tablet form. Therefore, criminals are buying huge amounts of ephedrine tablets and simply crushing them up to make methamphetamine.

Around the Western States, DEA reports finding large caches of ephedrine tablets during recent seizures of illegal drug labs. One site contained over 1 million ephedrine tablets.

In Oregon, the Board of Pharmacy has taken steps to control the over-the-counter [OTC] sales of ephedrine, yet criminal meth cookers can simply cross State lines to purchase the necessary ingredients to make their deadly drug.

According to the Oregon State Police, ephederine is also widely available through mail order houses which seem to specialize in selling large amounts of this precursor chemical in tablet form. I would like to include for the record a copy of a letter from Oregon State Police Lt. Robert W. Miller, which describes this problem.

Furthermore, there is no requirement for handlers of precursor chemicals to register with the DEA. As a result, the DEA is left pretty much in the dark about who's out there selling restricted precursors. This makes it very difficult to spot the offenders.

The DEA Administrator cited the need for this information in order to "more effectively control the distribution of list 1 chemicals which are primarily precursors," in a recent letter to the Speaker of the House of Representatives.

In a letter which I am also including for the record, Ruth Vandever, executive director of the Oregon Board of Pharmacy expressed her concern that due to the loopholes in the Chemical Diversion Act, the methamphetamine problem persists in Western States and is certain to creep eastward unless action is taken.

Today I am introducing legislation, the Precursor Chemical Control Act of 1991, that will keep the key ingredients for this dangerous drug out of the hands of criminals.

First, my legislation will remove the exemption of tableted precursor chemicals from the Diversion Act controls and reporting requirements. This way, these products will still be available for legitimate use, but transactions involving large amounts will be accounted for and reported to the DEA.

Second, my legislation requires that all handlers of restricted precursors register with the DEA. Handlers means manufacturers, suppliers, importers, exporters, sellers, and distributors. This is no different than what is required of physicians and pharmacists who handle controlled substances.

Let's strengthen our efforts to crack down on illegal drug laboratories, close the precursor chemical loopholes, and eliminate the nationwide expansion of the methamphetamine scourge.

OREGON DEPARTMENT OF STATE POLICE,
Salem, OR, June 26, 1991.

Congressman RON WYDEN,
Washington, DC.

This letter is in response to a request from your office regarding problems encountered with ephedrine tablets and their use in clandestine methamphetamine laboratories.

In 1990, the Western States Information Network reported the seizure of (60) sixty methamphetamine labs in Oregon. Of this total, there were fourteen (14) incidents listing ephedrine as a precursor that was seized.

Current 1991 statistics report twelve (12) methamphetamine labs seized in Oregon, with one incident of ephedrine mentioned.

The future trend of methamphetamine production in Oregon will soon evolve to the ephedrine process. This is based on lessons learned from California.

In 1987, the Oregon Board of Pharmacy listed bulk ephedrine as a schedule II controlled substance in an effort to curb its widespread use in the production of illicit methamphetamine. In April of 1990, the Oregon Board of Pharmacy restricted the sale of over-the-counter ephedrine to prescription only. Police reports received from Idaho, Oregon, Washington, and Canada indicated over-the-counter ephedrine tablets sold by drug outlets in the Portland, Oregon area had become a source of ephedrine for northwest "methlab cooks."

Retail drug outlets in other states are now being utilized for a source of ephedrine tablets through catalog mail orders. Seizures of bottles containing 1000 ephedrine tablets indicate that they are being ground into powder for methamphetamine production.

It is currently a Class A Misdemeanor in Oregon for a person to sell, give away, barter, distribute, buy, receive, or possess any federal legend drug, which over-the-counter ephedrine is now designated.

I hope this information has assisted you. Please feel free to contact me if I may be of further assistance.

Sincerely,

ROBERT W. MILLER,
Lieutenant, Drug Enforcement Section.

OREGON BOARD OF PHARMACY,
Portland, OR, May 29, 1991.

ALICIA KNIGHT,
Congressman RON WYDEN,
Washington, DC.

DEAR ALICIA: I sent a copy of your March 14 memo proposing legislative changes in the Chemical Diversion Act to the directors of pharmacy boards in Washington, Idaho, Nevada and Arizona. Since then, I have had opportunity to discuss the proposals with them in person at the National Association of Boards of Pharmacy (NAPB) annual meeting.

They and I agree that the proposals have much merit and would encourage and support efforts by Congressman Wyden to remove the exempt status of ephedrine and pseudoephedrine tablets and to require the registration of persons distributing precursor chemicals.

My impression at the NAPB meeting was that the methamphetamine precursor problem, or at least the awareness of a problem, is still pretty concentrated in the western states. I am certain that it will creep eastward and that the creative minds of our western 'meth' chemists will creep right along with it. It is difficult to stay one step behind them, much less one step ahead.

To end on a note of optimism, I will pass along a recent quote from a Multnomah County Deputy Sheriff * * * "The only reason we finally win is that they are dumber than we are."

Thanks for all your help.

Sincerely,

RUTH VANDEVER, RPh,
Executive Director.

CELEBRATING THE 135TH ANNIVERSARY OF THE BIRTH OF SCIENTIST-INVENTOR NIKOLA TESLA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ROE. Mr. Speaker, it is with distinct pleasure that I rise today to pay tribute to an extraordinary scientist, inventor, and patriot. Nikola Tesla, son of a Serbian Orthodox clergyman, emigrated to the United States at the age of 28 and proceeded to revolutionize electromagnetic technology and pave the way for many of our modern machines and techniques such as robotics, computers, satellites, and microwaves.

Born on July 10, 1856 in the Smijan, Lika region of what is now Yugoslavia, he came to this country and later became an American citizen in 1891. This, as he often told friends, he valued more than any of the scientific honors to come to him. Honorary degrees he tossed into drawers, but his certificate of naturalization was always kept in his safe. He died in New York City on January 7, 1943, but today, July 10, will mark the 135th anniversary of his birth, so I take this opportunity to remember a lifetime of accomplishments and scientific advancements.

Following his technical training at the Polytechnic School in Graz and the University of Prague, he worked at the telephone company in Budapest and later at the Continental Edison Co. in Paris. Unable to interest European scientists in a new alternating-current motor he envisioned, Tesla moved to the United States in 1884. After redesigning dynamos for Thomas Edison in New York City, he established his own laboratory in 1887 and began a spectacular career of research and invention. By the beginning of the 20th century his achievements had made the name of Tesla as world famous as that of Edison.

Tesla's first and probably greatest accomplishment was his discovery of the rotating magnetic field and then his clever adaptation of it to his induction motor and polyphase system. The combination of the motor and his system yielded the first practical means for creating large quantities of electricity in one

place and sending it economically over long distances for use at another place. Tesla's invention made possible the large-scale harnessing of Niagara Falls at the end of the century and allowed electric light and power to be provided wherever needed. Today practically all the world's electricity is still generated and transmitted by means of the Tesla polyphase system and is turned back into mechanical power by updated models of motors originally covered by his patents.

Hoping to develop a light more efficient than the incandescent lamp, Tesla began to investigate alternating currents of higher voltages. In 1891 he created the "Tesla coil," an air-core transformer that had its primary and secondary tuned to resonance. For operation on these high voltages, he developed tubular lights filled with gas, coated with phosphor, and lacking filaments—forerunners of modern neon and fluorescent lights. While studying currents from his coil, Tesla also made pioneer contributions to the then unborn fields of high-frequency induction heating, diathermy, and radio.

Among many honors, Tesla received degrees from Columbia and Yale Universities, the Elliot Cresson Medal of the Franklin Institute, and the Edison Medal of the American Institute of Electrical Engineers. In 1956, as part of international commemorations of the centennial of his birth, the term "tesla" (T) was adopted as the unit of magnetic flux density in the mksa system.

Mr. Speaker, I am sure my colleagues here in the House join me in honoring this man who contributed so much knowledge to our Nation and to the world. Nikola Tesla was one of the most extraordinary of scientists, almost supernaturally gifted, erratic, and flamboyant, he was and remains a hero and mentor to many of the 20th century's most famous scientists. Nikola Tesla's 700 inventions radically altered and continue to influence the world in which we live. It is only fitting that we honor him here in the U.S. Congress on this the 135th anniversary of his birth.

IMPROVING THE AVAILABILITY AND AFFORDABILITY OF EARTHQUAKE INSURANCE

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DREIER of California. Mr. Speaker, I am pleased today to join as an original cosponsor of H.R. 2806, a bill to create an Earthquake Insurance and Loss Mitigation Program. It was introduced this morning by my colleague from Washington, Mr. SWIFT. We are also fortunate to have as cosponsors the chairman of the Science and Technology Committee, Mr. BROWN, and another hard working member of that committee, Mr. BOEHLERT.

H.R. 2806 represents nearly 18 months of discussion and compromise, incorporating the best features of two bills introduced in the 101st Congress: H.R 4915, sponsored by Representatives BROWN and BOEHLERT, and H.R. 4480, sponsored by Representative SWIFT and myself. I look forward to working with this distinguished group of cosponsors to enact H.R. 2806 into law as soon as possible.

Mr. Speaker, the 1989 Loma Prieta earthquake in California, which killed 67 people and caused 8 to 10 billion dollars' worth of property losses, was the most damaging earthquake to hit California since 1906. Despite California's long history of damaging earthquakes, a surprisingly small number of Californians have opted to purchase earthquake insurance.

Throughout the rest of the United States, where the incidence of damaging earthquakes is lower, but the risk is still significant, the proportion of home and property owners who purchase earthquake insurance is even smaller. Consequently, many potentially unavoidable—and unforeseeable—losses from earthquakes in the United States are not insured. Further, the losses that are covered could, in a major earthquake, be so large as to disrupt our entire economy.

Recognizing the potentially devastating impact of a large earthquake, we are seeking ways to minimize that impact through legislation to implement a national earthquake insurance, Reinsurance and Loss Mitigation Program. H.R. 2806 was drafted with unprecedented cooperation between scientists, engineers, academics, and representatives of the insurance industry.

Mr. Speaker, catastrophic earthquakes are inevitable. We know they are going to strike. We can even predict with some reliability where they might occur. We have been reminded of the awesome power of earthquakes all too recently. For example, the Mexico City earthquake in 1985 killed thousands and caused economic losses in the neighborhood of $4 billion. The Soviet Armenian earthquake of 1988 was responsible for over 25,000 deaths and 18,000 injuries, and left over half-a-million people homeless. Just last year, massive jolts in Iran and the Philippines caused upwards of 50,000 and 1,600 deaths respectively. During a visit last year to the Philippines, I saw first hand the devastation and human suffering wrought by catastrophic earthquakes.

The United States has not been immune to earthquakes. The Loma Prieta-San Francisco earthquake is still a vivid memory for most Americans. But it was a smaller tremor in my congressional district—the Whittier Narrows quake of 1987—that brought the earthquake risk home to me. This earthquake killed eight people and caused property losses of over $300 million. But it left an enduring legacy for my constituents. In fact, some of the small businesses in downtown Whittier are still trying to recuperate.

Neither Loma Prieta nor Whittier Narrows was the big one that seismologists are predicting for the United States. Most scientists agree that there is a virtual certainty that a monster quake at least 30 times more powerful than the Loma Prieta earthquake will strike somewhere in the United States within the next 40 years.

Catastrophic earthquakes are not only a California problem. Studies by the U.S. Geological Survey confirm that the big one could as easily occur east of the Rocky Mountains as in the Western States. The largest earthquakes in recorded American history occurred along the New Madrid Seismic Zone in the Central United States during the winter of 1811–12. The series of New Madrid quakes were felt throughout the Eastern half of the United States, ringing church bells in Boston and collapsing scaffolding on the Capitol Building in Washington, DC.

The U.S. Geological Survey estimates that there is between a 16 and 63 percent chance that an earthquake in the magnitude 6.0 to 6.5 range could strike New Madrid in the next 15 years. Given the geology and the relative lack of preparedness of the region, such an event could easily cause billions of dollars in losses to housing alone. A recurrence of the magnitude 8 earthquake that struck in 1811–12 would cause thousands of casualties, and damage would run in excess of $50 billion.

Besides the New Madrid Seismic Zone, which runs through a seven-State region affecting Missouri, Tennessee, Mississippi, Kentucky, Arkansas, Indiana, and Illinois, other high-risk areas in the United States include the States of Washington, Utah, South Carolina, Alaska, Hawaii, and Massachusetts. None of these States are anywhere near as prepared for a major earthquake as California. Preparation and mitigation measures, resulting from years of living with the immediate threat of earthquakes, are what kept the loses in the Loma Prieta earthquake relatively low.

The impact of a devastating earthquake occurring near a major metropolitan area would not be limited to the immediate vicinity. It would be felt throughout the country. Destroyed lifelines, such as highways, bridges, oil and gas pipelines, and communication lines, would affect regions thousands of miles from the epicenter.

An earthquake in the Central United States, for example, given its location at the crossroads of the Nation, could disrupt the flow of natural gas and oil to the cities of the eastern seaboard, leaving the financial markets of New York City without power and communication links, and disrupting world financial transactions.

Insured losses in such an event could easily exceed $50 billion to $60 billion. A loss of this magnitude would ripple through the national economy, impacting the stock and municipal bond markets, and affecting the economies of the world.

Despite the enormous financial disruptions that would inevitably result from large losses, some of the biggest losers in a major earthquake could be ordinary consumers, including those who live far from the quake's epicenter. These people might be unable to purchase insurance for ordinary perils such as auto and general liability, as many insurance companies would not have any funds available to write new policies after covering the catastrophic losses resulting from the earthquake. As bad as this is, individual homeowners would probably suffer the most. Fewer than 10 percent of the homeowners in the United States have earthquake insurance.

Earthquake insurance is generally not purchased because the premiums and deductibles are simply too high. A major earthquake would be particularly catastrophic for those uninsured homeowners who could lose a lifetime's worth of equity in a few seconds of shaking.

H.R. 2806 will help remedy many of these problems. The legislation creates two separate but parallel insurance programs: A Primary Earthquake Insurance Program which covers shake damages and applies to all residential property in the United States that is secured by government-backed mortgages; and an excess reinsurance program which covers all related earthquake damages and is triggered if the quake exceeds about $10 billion in insured losses.

This bill would make available to nearly all homeowners in the U.S. insurance protection against losses resulted from direct shake damages for all earthquakes. Such a universal program spreads the risk throughout the country, so premiums would drop automatically. Most homeowners would see at least a 60-percent reduction in earthquake premiums. Under the proposal, high-risk areas—such as my home State of California—might pay as much as $50 per year for an average house while low-risk areas might pay premiums as low as $2. Presently, Californians are paying well over $100 on average for earthquake coverage.

The reserve funds will help cushion the economic blow of a truly catastrophic earthquake. The program also allows the property and casualty insurance industry to remain viable and to continue offering insurance coverage to consumers following a major disaster.

This approach provides the United States with a means to rebuild the Nation's economy, peoples' lives, homes, and businesses by prefunding earthquake losses and reducing the great reliance on government disaster assistance following an earthquake. The program will rely on premiums collected from homeowners and the insurance industry, not the taxpayers. Government moneys could be borrowed in the interim only if a serious earthquake strikes before the funds have built up sufficient amounts to cover the loss, but must be paid back from future premiums with interest.

Mr. Speaker, we learned some valuable lessons last year from the congressional hearings. The primary concern expressed was the need for a strong nationwide loss prevention program which would help mitigate the losses from future earthquakes. With the assistance of a blue-ribbon panel of mitigation experts, we created a strong mitigation program including locally developed and implemented building codes, seismic standards, and measures to increase the resistance of structures to earthquakes. The mitigation program uses a combination of reward-based incentives and phased-in requirements to ensure that local communities across America enact loss reduction measures.

This legislation can serve as a model for the rest of the world. Already Japan and New Zealand have their own government earthquake insurance and reinsurance programs in effect. Most important, Mr. Speaker, it incorporates loss mitigation provisions to help reduce the impact of earthquakes by protecting property and saving lives.

I hope my colleagues in the House will study the merits of H.R. 2806 carefully, will agree that it is a necessary program, and will join us as a cosponsor of this legislation to establish a national earthquake insurance and loss mitigation program.

THE MADRID PROTOCOL ON ANTARCTICA

HON. RON de LUGO

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DE LUGO. Mr. Speaker, I rise to express my great disappointment with the recent decision of the administration to oppose the Madrid protocol, an agreement worked out in April among the Antarctic Treaty nations that would have banned all commercial mining in Antarctica for a period of 50 years.

June 23 was the 30th anniversary of the ratification and entry into force of the Antarctic Treaty. Representatives of the 26 countries with full voting rights, who had drafted the Madrid protocol in April, met again in Madrid with hopes of having a formal signing of it on June 23.

As chairman of the Subcommittee on Insular and International Affairs which has jurisdiction regarding Antarctica, I was one of those Members instrumental in seeing that House Concurrent Resolution 109 which commemorated the June 23 anniversary and encouraged the United States to close Antarctica to commercial minerals development for at least 99 years, was approved by the House in time for the Madrid meetings.

Unfortunately, the U.S. delegation was the only one of the 26 Antarctic Treaty nations to return to Madrid without Government approval to sign the protocol. It took this position in spite of the fact that two bills supporting the moratorium on mining became law last year: Public Law 101–594, the Antarctic Protection Act of 1990 that was sponsored by the late Representative Silvio Conte and Public Law 101–620, a joint resolution that called on the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty consultative parties for the full protection of Antarctica as a global ecological commons. Furthermore, the administration's representatives submitted a proposed amendment that would have allowed any country to disassociate itself from the ban if an amendment it proposed was not put into effect within 3 years, a proposal that environmentalists lamented. The result was not only that the protocol was not signed but that the United States has isolated itself within the international community.

At last week's meetings in Madrid, there was no indication that the United States took the position supported by the legislation that had been approved by the Congress and signed by the President seriously.

I urge the President, who has proclaimed his desire to be known as an environmental president, to end this attempt to change the Madrid protocol as it was attained by consensus and join with the other signatory nations in signing it as soon as possible.

THE CSCE EXPERTS MEETING ON NATIONAL MINORITIES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HOYER. Mr. Speaker, from July 1–19, 1991, the Conference on Security and Cooperation in Europe [CSCE] will hold a meeting of experts on national minorities in Geneva, Switzerland. As Chairman of the Commission on Security and Cooperation in Europe, I would like to draw attention to this meeting and to express my regret that I could not be there at its opening.

First of all, I would like to pay tribute to the U.S. head of delegation, Ambassador Max Kampelman. His appointment reflects the high priority the United States places on the CSCE and on the Geneva meeting. I would also like to commend Switzerland for hosting the meeting and for displaying what I am sure will be excellent hospitality. Switzerland and the United States share a rich history of friendship; indeed, the Library of Congress in Washington is currently celebrating this history with an exhibition entitled "The Sister Republics."

The Geneva meeting has been called to address a problem we hoped would not outlast the 20th century. Throughout Europe, history has witnessed the suffering caused by national and ethnic persecution. Many of the 35 CSCE states have been torn by ethnic conflicts. Our own country once fought a bloody civil war whose root cause was the cruellest manifestation of racial intolerance: slavery. And the United States has long struggled to redress the legacy of such persecution.

Over the past year, we have welcomed the countries of Eastern Europe onto the path of democracy. We have encouraged and admired their brave transition to pluralism, democratically elected governments, and rule-of-law societies. But democracy is not a plateau to be achieved or a reward to be attained. Democracy is a concept and a condition to be nurtured, and bolstered, and protected. And one measure of a democracy is the degree of protection it accords its most vulnerable components. One true measure of a democracy is the treatment of its minorities.

The CSCE Copenhagen Document, now 1 year old, recognized this and included groundbreaking language on minority rights. And one of the main tasks in Geneva must be to review the implementation of existing CSCE commitments, such as those in the Copenhagen Document. Through this review, member states, including our own, should acknowledge their own shortcomings but also highlight their experience in protecting the rights of minorities.

Responding to minority issues is a complex and often controversial endeavor. Yet history has taught us some lessons. One thing that has not worked is trying to pretend that minority problems don't exist. One thing that has not worked is trying to pretend that only one system is capable of erasing animosities. One thing that has not worked is turning a deaf ear to criticism and concerns.

Prejudice and discrimination based on racial or ethnic difference are of serious concern in

all CSCE countries. But while their specific manifestations may be different, I believe we all share a common desire: that justice in our countries be fairly and equally granted, that injustice in our countries be swiftly and equitably corrected, and that diversity among our people be firmly and unreservedly respected. This common aspiration must be the driving force in Geneva.

There are many approaches to combating discrimination. I firmly believe, however, that expressions of hatred and prejudice should be fought not by limiting freedom of expression or association but by strong condemnation of such expressions and a more active promotion of tolerance, mutual understanding, and equal rights.

Fortunately, the CSCE does not begin its work from scratch. The Copenhagen Document provides the fundamental framework: rule of law, participatory government, individual civil and political rights, and nondiscrimination. Bolstering these practices will take time. But when conflict erupts in violence, there is no time. In these situations, the government's message must be immediate and clear: Acts of violence, against persons, or property, will not be tolerated.

A government cannot legislate feelings. But it can promote cultural exchange, as was recently discussed at the CSCE meeting in Krakow. It can encourage tolerance and respect through its own policies and conduct. It can work, in a positive way, to provide responsible and responsive leadership. In particular, it can oppose popular discrimination against minorities, and make legal remedies readily accessible to members of minority groups when their rights are denied.

In this context, perhaps the most important aspect of the rule of law is not just its ability to prevent wrong, but rather, its capacity to redress wrongs. This function is what nurtures the faith of the people in the system—and is crucial in any state, but particularly in those where faith has been betrayed for many years.

One of the sorriest episodes in American history was the wrongful internment of Japanese-Americans during World War II. In the celebrated Supreme Court case of Korematsu versus United States, Justice Jackson, one of the lone dissenting voices, wrote:

> Much is said of the danger to liberty from the Army program for deporting and detaining these citizens of Japanese extraction. But a judicial construction of the due process clause that will sustain this order is a far more subtle blow to liberty than the promulgation of the order itself.

As we recall all too well, the courts failed in this case to protect the rights of the individual. But the system was strong enough, and committed enough, to correct its own mistakes. Years later, the U.S. Congress enacted historic legislation to redress the wrongs done to Japanese-Americans in those tragic times. The system struggled with itself to provide the justice it had wrongfully denied.

This cathartic element of the rule of law is perhaps its greatest virtue.

These issues represent only a fraction of the potential for discussion in Geneva. As member states share their experiences and confront their shortcomings, we can strive for greater social tolerance and harmony together. This meeting is not about settling past scores, it is about recognizing and respecting differences. It is about allowing all individuals to enjoy the full expression of their national and cultural identity. In short, it is about advancing human dignity. Human dignity, human freedom, human values.

In the words of the Framer of the American Constitution, Thomas Jefferson, we are bound by a "* * * sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; [and] that the minority possess their equal rights, which equal law must protect, and to violate would be oppression."

Mr. Speaker, the Geneva meeting is a very important CSCE meeting and is coming at a time when the issue of national minorities is threatening certain CSCE states. It is an appropriate forum for the CSCE countries to deal seriously and decisively with the issue. The Commission will have several of its staff participating as members of the U.S. delegation under the leadership of Ambassador Kampelman. We will be following the meeting closely and hope to convene a hearing upon the meeting's conclusion.

H.R. 1400

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. CUNNINGHAM. Mr. Speaker, I rise today to again urge that the House move promptly toward enacting the President's crime bill, H.R. 1400. As a cosponsor of this bill, I am disappointed by the delay in considering this critical legislation.

Among the most important provisions of H.R. 1400 are its desperately needed reforms of the habeas corpus process. Recently, I received a copy of a letter to Senator BIDEN regarding the omnibus crime bill and habeas corpus reform.

Twenty-nine State attorneys general have endorsed the habeas corpus reform provisions of H.R. 1400. The letter reads in part:

> We have concluded that meaningful habeas corpus reform must include a standard of federal court review which defers to full and fair adjudication by state courts and respects the integrity of state court processes * * * We are pleased that the U.S. Senate will be considering the long-needed reform of the federal habeas corpus process. Thirty-six states have adopted capital punishment procedures for appropriate cases. All fifty states must defend state court judgments in federal courts under the federal habeas corpus process. It is well-settled that the process is not working. Only the Congress can establish reasonable habeas corpus procedures and restore public confidence in our criminal justice system.

This endorsement of the Federal habeas corpus reform provisions of H.R. 1400 was signed by the attorney general or equivalent officer of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Guam, Hawaii, Idaho, Indiana, Kansas, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

Additionally, the attorneys general of the nine States comprising the ninth circuit have also issued a statement in support of the habeas corpus reform provisions of H.R. 1400. Their statement says:

> [We] conclude that meaningful Federal habeas corpus reform is necessary to promote the finality of state court judgments, curb repetitious and unnecessary litigation, and restore public confidence in the criminal justice process; [and] strongly endorse the provisions of S. 635 (H.R. 1400), titles II and X, as the best legislative package currently before the U.S. Senate to remedy the problems of lack of finality and unnecessary and incessant litigation currently experienced under the Federal habeas corpus process.

This statement was signed by Attorney General Charles E. Cole of Alaska, Attorney General Grant Woods of Arizona, Attorney General Daniel E. Lungren of California, Attorney General Warren Price III of Hawaii, Attorney General Larry EchoHawk of Idaho, Attorney General Marc Racicot of Montana, Attorney General Frankie Sue del Papa of Nevada, Attorney General Dave Frohnmayer of Oregon, and Attorney General Ken Eikenberry of Washington.

Mr. Speaker, it is time that we in Congress heed the advice of our Nation's top law enforcement officers. They are pleading with us to enact the habeas corpus reform provisions of H.R. 1400. I urge the House to move quickly to enact the President's crime bill.

IACOCCA SPEAKS ON JAPANESE AUTO DUMPING

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DINGELL. Mr. Speaker, I insert for the edification of my colleagues an article in the June 17 edition of the Detroit Free Press by Lee Iacocca on the problem of auto "dumping" by the Japanese. He says it's time to get tough with this insidious problem.

Mr. Iacocca cites the price manipulation of the Jeep Cherokee which sells in the United States at a suggested retail price of $22,300 and gets marked up in Japan to $34,000. The Toyota minivan sells in Japan at $22,200 and gets marked down in the United States to $15,200.

Some say healthy competition. But I agree with Mr. Iacocca that it is blatant dumping and I agree with the Big Three in their antidumping suit that the situation must be rectified.

I ask my colleagues to discover the facts.

LET'S GET TOUGH ON JAPANESE AUTO "DUMPING"

It looked for a while as if we'd finally solved the mystery of the Bermuda Triangle, but it's still with us. And so is an even bigger mystery that takes place somewhere in the middle of the Pacific Ocean.

Picture two ships, both loaded with trucks, one sailing west from America to Japan, and the other heading this way. The one going west is loaded with Jeep Cherokees, and the one coming this way is carrying Toyota minivans. (There are 20 times more ships

coming this way than heading toward Japan, but that's another story and another column.)

The Cherokee carries a manufacturer's suggested retail price in the United States of $22,300. The Toyota minivan has almost the identical price in its home market of Japan—$22,200.

Then something strange happens.

Somehow as these two ships pass in the night, the price tags on all the American trucks go up and those from Japan all go down.

For example, that $22,300 Cherokee gets marked up $12,000 to $34,400 while the price tag on the Japanese minivan goes down $7,000 to $15,200. The two trucks that started their boat rides at almost exactly the same price are $19,200 apart by the time one lands in Long Beach, Calif., and the other one hits the docks at Yokohama, Japan.

What's going on here? Are some mischievous little creatures emerging from the deep and changing the prices? No, there's no mystery at all. There are no gremlins crawling out of the sea. The price of the Cherokee goes up because of Japanese non-tariff trade barriers designed to protect that market from foreign competition, and the price of the Toyota minivan goes down because they're being illegally "dumped" in this market to grab market share from American auto companies.

When a product is sold in this country for less than it costs to make or less than consumers in the home market pay for it, that's dumping. And it's against the law. It's illegal because common sense tells you that the foreign producer isn't doing that because he's got a soft spot in his heart for the American consumer. He wants to control the market so one day he can dictate prices and the consumer will be his pawn.

By the way, not one dime of that $12,100 price hike for the Cherokee is profit for its American manufacturer. It goes for customs fees, to meet certain unique Japanese vehicle regulations, and most of all (72 percent of the increase) for distribution costs once the Cherokee reaches Japan. The distribution costs are high because the major Japanese car companies won't let their dealers handle American cars—something that's illegal in this country under our antitrust laws.

So the Cherokee arrives in Japan with a huge price disadvantage. The Toyota minivan, on the other hand, is cheaper for American buyers than for Japanese buyers. How can that be? Doesn't the boat ride at least cost something?

Of course it does. That's why General Motors, Ford and Chrysler filed a formal complaint with the federal government two weeks ago accusing Japanese companies of dumping minivans into the American market.

The Big Three complaint raised a lot of eyebrows because it's the first time the three companies—whose main goal in life has always been to knock each other's heads in—have gotten together on an issue like this. And if it gets favorable action, it'll be the first time the government has done anything about the predatory trade practices that have seen Japanese companies take a third of the American automotive market.

Let's face it, the United States has been nothing if not hospitable to Japanese vehicles. Consider what happens when one of those Japanese minivans is off-loaded in this country.

Four U.S. regulators all look it over. The guy from the Environmental Protection Agency inspects it and declares that it is a truck an will only have to meet the emissions standards for U.S. trucks, which are naturally not as strict as those for cars.

Behind him is the man from National Highway Traffic Safety Administration, who certifies that it is indeed a truck so it won't have to have the same safety devices as a car. And then comes the inspector from the Department of Transportation who also agrees that the vehicle is a truck so it won't have to meet the higher fuel economy requirements of a car.

But then comes the fourth inspector. He's from the Customs Service. He looks at the Japanese minivan and says, "Nope, this isn't a truck at all, it's a car" And that means it only pays a duty of 2.5 percent instead of the 25-percent duty on trucks.

That really sounds like Bermuda Triangle stuff, but again there's no mystery about it. It's because the $100-million Japan lobby in Washington has been writing America's trade rules.

The dumping action is long overdue. You can bet that the hordes of Japanese lobbyists will be working overtime to defeat it. But American taxpayers, American auto companies and their workers, and ultimately American consumers are all at risk when foreign companies can manipulate the American market the way Japan has done for years.

Maybe this will be the beginning of the end. Maybe we can start taking some of the mystery out of our auto trade with Japan and start putting some fairness in.

CONCERN FOR SOVIET REFUSENIK SAMUEL ROMBE

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SWETT. Mr. Speaker, I rise today to draw my colleagues' attention to yet another case of oppression in the Soviet Union. The case is that of Samuel Rombe, a Jew who has been denied permission to emigrate from the Soviet Union. Since 1975, when he first applied for an emigration visa, his life has been plagued by numerous injustices inflicted upon him by the anti-Semitic Soviet regime.

Following his initial appeal for permission to emigrate to Israel, Mr. Rombe was fired from his prestigious position as a biologist in the field of reproduction. For no other reason than wanting to leave the U.S.S.R. for a place where he and his family could live peacefully as Jews, he was discriminated against and his career came to a halt.

Since that time, Samuel Rombe has worked in other jobs where his impressive skills and training are wasted: as a doorman, a truck driver, a farmer, and a shop clerk, among others.

Mr. Speaker, Mr. Rombe is even less fortunate than many of his fellow refuseniks. Like most refuseniks, he has lost his job, his status and his right to work in the field for which he was trained. Worse than that, he has also been imprisoned—not just once, but twice.

He was first jailed in July 1981 on trumped-up charges of currency trafficking and speculation because his financial plight had forced him to sell some of his deceased mother's jewelry. But 5 months of jail and 3 years of hard labor at Gorky did not deter Mr. Rombe from his struggle to receive permission to emigrate. Last year his family was finally given the necessary documents allowing them to leave the country. But just days before their scheduled departure, Mr. Rombe was framed by the KGB and again arrested on unfounded charges of violation of currency operations. His daughter left Moscow and is eagerly awaiting the arrival of the rest of her family at her home in New Hampshire.

But Mr. Rombe is once again in jail. During his arrest he was brutally beaten by 15 armed KGB agents and, despite his deteriorating health, he has been denied medical attention at the Matrossikaia Tishena Prison in Moscow where he has been awaiting trial and without bail, for more than 6 months. His family has been told that he will be sentenced to 10 years of imprisonment. It is my hope that another decade of repression will not be inflicted on this long-suffering man and his family.

Although a signatory to the Universal Declaration of Human Rights, the Soviet Union has continually ignored that document's provisions by failing to allow its citizens free exit and entry.

Mr. Speaker, I ask my colleagues to join me in expressing support for Mr. Samuel Rombe and his fight for emigration, and to continue to urge the Soviet Union to obtain the release of Mr. Rombe as well as the thousands of other refuseniks who remain prisoners in their own land.

A CONGRESSIONAL SALUTE TO CAPT. LARRY D. JOHNSON, COMMANDER, LONG BEACH NAVAL SHIPYARD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ANDERSON. Mr. Speaker, during the early days of World War II, Congress recognized the need for an additional naval shipyard on the west coast and authorized construction of what is now the Long Beach Naval Shipyard, located on Terminal Island in Long Beach, CA. This is one of eight naval shipyards performing top-quality ship repair overhaul, maintenance, repair, and modernization for the U.S. Navy's ships. This work is truly essential to our defense posture and to maintenance of a fleet that is ready for all conceivable types of duty at sea.

As the older types of ships that Long Beach Naval Shipyard has historically worked on have been released from active fleet service by retirement and decommissioning, and as some of the remaining active ship types have been made the subject of competitive procurement procedures for overhaul and repair, Long Beach Naval Shipyard has been confronted with a need to drastically reduce the size of its work force. The management team of Long Beach Naval Shipyard affirmatively chose to do that in a fiscally responsible way, by reducing overhead and other expenses at approximately the same rate at which direct revenues were falling and by maintaining a sound business basis for continued service to the U.S.

Navy. In 1984, Long Beach Naval Shipyard employed over 7,000 persons; by the end of 1989, the employment level had been reduced to just over 4,000, a reduction of more than 40 percent. The financial performance of the Long Beach Naval Shipyard has, however, improved such that the accumulated operating results account—similar to a private corporation's retained earnings account—now stands at a positive balance of more than $53 million. Over this time, Long Beach Naval Shipyard has set records in ship overhaul completions which meet or beat established delivery schedules, has demonstrated improvement after improvement in the execution of new threat upgrade weapons system major modernization packages on U.S.S. *Leahy* (CG–16), and U.S.S. *Belkap* (CG–26) class ships, and has set unbeatable time and cost performance records in head-to-head competition with the private ship repair industry on U.S.S. *Spruance* (DD–963) and U.S.S. *Kidd* (DD–993) class ships. In congressionally mandated public/private competition for surface ship overhauls since 1985, eight ships have been awarded to public shipyards in what has become a fierce competitive environment among providers in a rapidly declining industry. Seven of those ships were won by Long Beach Naval Shipyard. On completion of the regular overhaul of the competition ship U.S.S. *Callaghan* (DDG–994), the innovative comprehensive project management concept applied resulted in the shipyards receiving a performance rating in excess of 98 percent from the Performance Fee Board, which is the highest rating ever assigned of any ship at any shipyard for a complete overhaul. The reorganization of Long Beach Naval Shipyard is recognized in the industry as a quantum leap toward increased efficiency and is now being used by the Naval Sea System Command as the model to review for potential restructuring and downsizing of the seven other naval shipyards in response to the declining fleet size of the future. The achievement record of Long Beach Naval Shipyard was especially recognized when the Secretary of the Navy awarded it the Navy Meritorious Unit Citation in January 1991, making it the only west coast naval shipyard to receive that honor.

The credit for these successes belongs to the determined work force of Long Beach Naval Shipyard and to the inspirational leadership of the shipyard commander, Capt. Larry D. Johnson. As the shipyard commander for 4 years, he has provided the strong direction and dedicated leadership which has enabled the Long Beach Naval Shipyard to complete exceedingly complex assignments with high output quality, cost-effective work procedures, and increasing productivity. Included in these accomplishments was successful completion of 26 scheduled ship repair periods—overhauls and restricted availabilities—one post-shakedown availability on a newly built ship, and 26 emergency availabilities for ships of the Pacific Fleet for repair of damaged major equipment on extremely short notice, as well as three weapons systems upgrade availabilities on Coast Guard ships.

Capt. Larry D. Johnson was born in McPherson, KS, and attended the University of New Mexico. He graduated in 1960 with a bachelor of science degree in electrical engineering and was commissioned through the Naval Reserve Officers' Training Corps [ROTC] program. Following commissioning, he served on board U.S.S. *Blue* (DD–744) as damage control assistant, on U.S.S. *Boyd* (DD–544) as chief engineer, on U.S.S. *Halsey* (CG–23) as hull officer, and on U.S.S. *Joseph Strauss* (DDG–16) as chief engineer. Larry Johnson later continued his formal education at the U.S. Naval Postgraduate School in Monterey, CA, where he earned a master of science degree in mechanical engineering in 1968. Following his professional designation as an engineering duty officer, Larry Johnson served on the staffs of: Commander in Chief, U.S. Pacific Fleet; Commander, Naval Surface Force, U.S. Atlantic Fleet. He also had tours of duty at both Puget Sound Naval Shipyard and Long Beach Naval Shipyard before assignment as the chief of staff for maintenance and engineering for the Commander, Naval Surface Force, U.S. Pacific Fleet.

On 29 June 1987, Capt. Larry D. Johnson returned to Long Beach Naval Shipyard to assume the duties of shipyard commander. At each step in his Navy career, Larry Johnson has been recognized for diligent, dedicated, enthusiastic, and outstanding performance. He has been honored numerous times and wears the Legion of Merit Medal with gold star in lieu of second award, the Meritorious Service Medal with gold star in lieu of second award, the Navy Commendation Medal, the Navy Achievement Medal, the Meritorious Unit Commendation with bronze star, the National Defense Service Medal with bronze star, the Armed Forces Expeditionary Medal, the Vietnam Service Medal, and the Republic of Vietnam Campaign Medal. His personal tradition of exemplary service has continued while serving as shipyard commander, where he has applied his knowledge and experience to improve the operations of the Long Beach Naval Shipyard and to successfully increase its abilities to complete all shipyard and other assignments. As a direct result of his visionary leadership and overall management goals and supporting objectives, the shipyard's military and civilian management team has become fully fused into a dynamic entity.

The progressive management style Larry Johnson has brought to the Long Beach Naval Shipyard assures its continuation as an active industrial facility and thus maintains it as a welcomed source of thousands of jobs, and millions of dollars in income to the South Bay area. The people of Long Beach and the surrounding communities will long benefit from this man's efforts. Upon his retirement from active military service, we are compelled to recognize that his personal achievements and contributions to Long Beach Naval Shipyard operations will leave long-lasting strengthening impacts on a profession vital to the security of the United States. My wife, Lee, joins me in congratulating Capt. Larry Johnson on the culmination of a most successful and rewarding career in military service. We hope that he and his wife Vivian will enjoy a prosperous and happy future. We are certain that he will continue to make highly beneficial contributions to both his country and his immediate community.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to participate in the congressional call to conscience vigil for Soviet Jews. In doing so, I join many of my colleagues who have taken the time to ensure that the plight of the Soviet Jews is not forgotten and remains in the public eye. Each week, we have brought before this House the case of an individual or family in the Soviet Union which has been kept from leaving by the Soviet Government. It is important to realize that some individuals are still being denied permission to emigrate, despite the recent Soviet emigration law, on the grounds that they have had access to state secrets that could jeopardize the security of the Soviet Union.

One of these refuseniks is Grigory Friedkin. Mr. Friedkin worked as an engineer and a chemical physicist and his wife Enta as a textile engineer at NPO [scientific production combine] Krasnoznamennik, a firm under the auspices of the Ministry of Medium Machine Construction—later transferred to the Ministry of Defense—until they were fired in 1989.

In October 1990, Grigory applied for an exit visa. His application was refused in January 1991 because of his alleged "connection with knowledge of state secrets and other grounds touching upon the security of the state."

Enta's parents have been allowed to leave and are now in Israel. Enta and their two children, Mikhail and Anna, have been granted permission to emigrate as well. Only Grigory, even though he was fired over 2 years ago, has been denied an exit visa and must wait until January 1994. This has created an unjust hardship for this family with no legitimate basis in fact.

The Soviet Government should move expeditiously to grant Mr. Friedkin's request to emigrate. Waiting 2½ years would not serve any constructive purpose, but it would mean 2½ years less time that the Friedkin family can be reunited in Israel.

As we have seen the gates of the Soviet Union open wide to allow an unprecedented number of Jews to emigrate to Israel, we must remember that these gates still do not allow all those who so desire to leave.

EDWARD G. BREEN: 1908–91

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HALL of Ohio. Mr. Speaker, last month, Edward G. Breen, a former Representative from Ohio, mayor of Dayton, and president of the Montgomery County Commission, died at the age of 82.

Mr. Breen was born in Dayton on June 10, 1908. The son of a hotel manager, Mr. Breen became a hotel manager himself. He distinguished himself in World War II serving in North Africa and Italy.

At the age of 37, Mr. Breen took office as Dayton's youngest mayor. He was elected as a Democrat from the Third District to the Eighty-first and Eighty-second Congresses and served from January 3, 1949. He resigned in 1951 due to ill health.

However, Mr. Breen did not retire from politics. In 1956 he was elected to the Montgomery County Commission on which he served until 1960. He served two terms as president of the Commission.

During his years in government service, Mr. Breen established himself as a true leader. One of his great strengths was his ability to pull together diverse factions. He was always dignified, yet he could reach out to everyone. He was an inspiration to the young leaders of Dayton.

Mr. Breen set the highest standards for community service. As the Representative who holds the seat he once occupied, I am reminded of his record of service which can serve as a model for the leaders of today and tomorrow.

PROBLEM ORIENTED POLICING

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DORNAN of California. Mr. Speaker, crime is running rampant in our country. Our communities are besieged by rapists, thieves, drug abusers, and casually indiscriminate murderers. Our police forces are strained to their limits in applying all their resources trying to deal with crime. Indeed, the terrible situation we see now is the impetus for my Police Corps legislation. But on a local level, communities are by necessity becoming more imaginative in their efforts to respond to crime.

One such effort has been producing real results since 1989 in the city of Santa Ana in my congressional district. Police Chief Paul M. Walters has adapted an operational strategy called problem oriented policing [POP]. This program builds on the highly successful concept of community oriented policing [COP], used by the Santa Ana Police Department since 1975. POP involves working together with citizens to identify conditions that contribute to crime and developing comprehensive solutions to specific problems. It is a long-term approach which seeks to alter those conditions in the community that encourage crime and disorder.

In a Los Angeles Times op-ed article last year, Chief Walters described the concept behind problem oriented policing. He bases his plan on a social phenomenon first described in 1982 by two well-known figures in law enforcement, James Q. Wilson and George L. Kelling, called the "broken windows" phenomenon. The theory uses the analogy of a broken window. When the first window broken in a building is not repaired quickly, people will conclude that no one cares about the building, and more windows will be broken. The point is that if disorderly behavior is allowed to thrive, it becomes a broken window that begets more disorder.

So the emphasis of crime prevention is at the heart of POP. It includes the direct involvement of the community which, after all, knows its needs better than anyone else. But exactly how is this done? One example described in an article in the Orange County Register entitled, "A Force With POP" is indicative of the relative ease in implementing problem oriented policing:

> Night after night, the prostitutes and drug dealers stood 20 abreast, lined up in the shadows of the Harbor Boulevard parking lot, ready to cut a deal.
>
> "It got so bad we had to walk some of the women that came in here out to their cars," said Chester Chiudioni, owner of Chiudioni's Subs and Pizza * * *. It was bad.
>
> Police chased suspects around the area, but what finally solved the problem wasn't a massive raid. Through telephone calls, meetings and discussions, Investigator Don Fox of the Santa Ana Police Department's Westend District Substation last month persuaded the plaza's landlords and tenants to put up four bright outside lights, clean up graffiti and trash, and hire a security guard to patrol the center.
>
> Presto. Criminal activity all but disappeared.

Problem oriented policing is truly a new concept in law enforcement. For it to work properly, the police department must be more accessible to the public. To do this, the Santa Ana Police Department opened self-contained substations. While traditional department substations are little more than storefronts for residents to file complaints and for officers to check paperwork, POP substations are staffed by 35 officers covering patrol, traffic, and investigative divisions, and function as minipolice departments assigned to a geographical area of the city.

Problem oriented policing, Mr. Speaker, is the wave of the future, and the Santa Ana Police Department is writing the book on it. It provides the structural framework needed to deal with crime before it becomes a problem. As Chief Walters said in a recent Los Angeles Times article:

> When we allow unruly conduct to flourish, severe crime problems quickly ensue * * *. My intent and purpose is to reestablish the rules of conduct, which all people expect in a civil society * * *. Our responsibility is to maintain order and to prevent future problems by fixing those 'broken windows' wherever we find them.

Mr. Speaker, I commend Chief Walters and the Santa Ana Police Department, and wish them continued success with this exciting program.

MASSPIRG WINS PHILIP HART DISTINGUISHED CONSUMER SERVICE AWARD

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MARKEY. Mr. Speaker, I rise today to make my colleagues aware that the Massachusetts public interest group, known as MASSPIRG, has won this year's coveted Philip Hart distinguished consumer service award. The Philip Hart award is presented by the Consumer Federation of America.

MASSPIRG is prominent through out the commonwealth of Massachusetts and nationwide for, among other things, their effective canvassing work. If you've ever stepped foot in Massachusetts you've probably been solicited by a MASSPIRG canvasser. One time I opened up my front door in Malden to find a MASSPIRG canvasser soliciting membership. I told him that I didn't need to give him money since I was a Congressman and worked on MASSPIRG initiatives all the time. He just looked at me and then finally said, "if you're really a Congressman, I'll only take cash."

In fact, I recently received the following letter from a Massachusetts resident. "Dear Congressman: I recently had a MASSPIRG canvasser at my front door. I told her that she'd come to the wrong place. I said I never use generic drugs, I don't mind waiting for checks to clear, I don't test my home drinking water, I don't care about the terms on my credit card, I don't live near a nuclear powerplant, and I don't care to give them any money. Then the canvasser told me that MASSPIRG is fighting to revitalize the two-party Democratic form of government. I immediately wrote a check for $100. Signed, Governor Bill Weld."

But it's not just MASSPIRG's canvassers who are ubiquitous. It's MASSPIRG lawyers and lobbyists, researchers and writers, organizers and activists. In 19 years MASSPIRG has become the largest state-wide consumer and environmental organization in the country. With Janet Domenitz at the helm, and Doug Phelps before her, MASSPIRG has built itself into a major presence in Massachusetts.

MASSPIRGERS are an exceptional lot. They look like typical college kids, but unlike other college kids who head off for M.D.S. and M.B.A.S, MASSPIRGERS have headed off for a degree in citizenship in their own communities—and some have made it their careers, at great financial sacrifice. MASSPIRGERS are researching the hazards posed by all-terrain vehicles and childrens toys, how merchants use unfair and deceptive credit card practices, and how little most citizens know about how to respond properly to an emergency at a nuclear power plant. And when it comes to educating their fellow citizens, MASSPIRG have no peer at any of Massachusetts' hundreds of campuses: MASSPIRG staff are teaching consumers how to avoid being scammed when renting a car, how to select nontoxic products for their families, how to save hundreds of dollars by choosing the right insurance company, and, most importantly, how to be an active and effective member of one's own community.

MASSPIRG has been behind just about every major consumer, environmental, insurance, and energy initative in the commonwealth of Massachusetts for nearly two decades. And MASSPIRG's influence extends well beyond the State lines—MASSPIRGERS were instrumental in working with Gene Karpinski and creating U.S. PIRG, they lobby for Federal laws, and they help train their counterparts nationwide.

Not that every day over the past 19 years has gone perfectly for MASSPIRG. Apparently Janet Domenitz has hired the same forensic scientists who are exhuming the body of Zachary Taylor to see if the recycling initiative died a natural death or was killed.

But most of the past 19 years have gone MASSPIRG's way. And that means it has gone the people's way. We in Congress, have desk jobs. MASSPIRG is the front-line infantry of the consumer movement and they have earned this well-deserved recognition the hard way—one door at a time. The Oscars have a lifetime achievement award. If CFA had one, MASSPIRG would win it, because what they do they do every year, year after year.

Alexis De Tocqueville wrote almost two centuries ago, that "America is a land of wonders, in which everything is in constant motion and every change seems an improvement."

Today, so much of our Nation has abandoned the quality that made us great. We are engaged in a sort of ancestor worship. But not at MASSPIRG. For MASSPIRG continues to strive and will persist in promoting change after change, improvement upon improvement. So far, after 19 years, they're off to a pretty good start.

DEDICATION OF THE SILVIO O. CONTE FEDERAL BUILDING IN PITTSFIELD

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. OLVER. Mr. Speaker, I rise today to introduce a bill on behalf of Members of the Massachusetts delegation naming the Federal Building in Pittsfield, MA, the Silvio O. Conte Federal Building. Senators KERRY and KENNEDY are also introducing a similar bill in the other Chamber today.

Many people know of Sil Conte's tremendous contributions to the country, western Massachusetts and the city of Pittsfield. I cannot think of a more fitting honor than naming the Federal Building in his home city of Pittsfield after this great man.

Sil Conte was a champion for the working people of the District and the Nation. He fought hard for the education of our children. He was a great friend and protector of the environment.

Sil Conte loved his city and everyone has the deepest respect for the man who gave his whole life to public service.

As I said in my first statement on the floor of this Chamber, Sil Conte's shoes were very large and though they can never be filled, I certainly hope to follow in his footsteps.

ORPHAN DRUG PRICES: UP, UP AND AWAY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. STUDDS. Mr. Speaker, last week, I took the floor to alert my colleagues to a June 16 New York Times Magazine article concerning the marketing of recombinant human growth hormone (r-hGH). That article noted the continuing high cost of growth hormone, which, as an "orphan drug" enjoys market exclusivity under the Federal Orphan Drug Act.

Another article in the June 25 Washington Post health section vividly illustrates the cruelly ironic situation facing many rare-disease sufferers—once orphan therapies finally reach approval they are priced beyond the financial capacities of those afflicted. However, the Post article describes one newly approved orphan drug, Ceredase, a key enzyme lacking in those with Gaucher's disease, which carries an annual price tag of $200,000. This will exhaust the private insurance coverage of most patients within only 5 years.

Nor is this the only exorbitantly priced orphan drug. The article describes numerous others. While the burden on individual patients is deeply troubling, it should also be noted that State and Federal budgets—through Medicaid and Medicare—shoulder a large and growing share of the burden associated with high orphan drug prices.

The article is the latest I have seen which raises serious questions about how the Orphan Drug Act is currently functioning. I commend it to my colleagues.

THE HIGH COST OF RARE DISEASES—WHEN PATIENTS CAN'T AFFORD TO BUY LIFESAVING DRUGS

(By Larry Thompson)

When the pain came back again, it started in Laura Glickman's righ hip. It came on slowly, so she was able to make it through exams at Garison-Forest, a girls' boarding school outside of Baltimore. But then the pain spread to her back and both arms, and grew in intensity, forcing the thin, brown-eyed girl into the school's infirmary.

Glickman, 16, of New Orleans, suffers from Gaucher's disease (pronounced gloshays), an inherited illness that deprives her of an enzyme that normally dissolves a certain kind of fatty material in the body. As a result, the fat accumulates, clogging her spleen, liver and the blood vessels in her bones.

Until recently, most people with Gaucher's died in middle age, after a painful, debilitating illness. But now, after more than 30 years of research, scientists at the National Institute of Neurological Disorders and Stroke have perfected a drug that can melt away the fatty material and relieve the pain it causes in the estimated 5,000 to 15,000 Americans who have the disorder. The Food and Drug Administration approved the new medication for general use on April 8.

The trouble for Laura Glickman is that her family cannot afford it and they lack health insurance that will cover it. The drug—called Ceredase and made by the Genzyme Corp. of Cambridge, Mass.—costs more than $200,000 a year.

Laura Glickman is among the 10 million to 20 million Americans who suffer from one of 5,000 rare diseases. As new drugs are developed for these disorders, an increasing number of patients are caught between the hope of finally having a life-saving treatment and the despair that they cannot afford the therapy.

Ironically, this Catch-22 has its roots in legislation designed to increase the number of treatments for rare diseases. In 1983, Congress passed the Orphan Drug Act to give pharmaceutical companies incentives to develop new treatments for diseases that afflict fewer than 200,000 people—often called "orphan" diseases. Drug companies had been reluctant to spend the average $231 million and 12 years required to take a drug from discovery to final approval because the potential market for such drugs is so limited.

To make orphan drugs more attractive commercially, Congress gave the drug makers a seven-year monopoly on a new medicine, eliminating competition and allowing companies to charge whatever they deem appropriate.

As a result, some of the new orphan drugs are so expensive that they are out of reach for a significant number of patients.

"The prices charged are beyond anything that Congress imagined when the act was passed in 1983," said Rep. Henry A. Waxman (D-Calif.), chairman of the House subcommittee on health and the environment. "It is hard to believe that companies need the advantages of the Orphan Drug Act for drugs that cost tens or even hundreds of thousands of dollars a year."

Some patients, like Laura Glickman, do not have health insurance plans that cover these new treatments. Even for people who have insurance, there is usually an annual out-of-pocket cost of $1,000 or $2,000. Most important, nearly every health plan has a lifetime maximum benefit, usually around $1 million.

Because Ceredase merely replaces the missing enzyme, it is not a cure for Gaucher's, and patients need to take the drug for the rest of their lives. On the average, four to five years worth of Ceredase can use up the person's lifetime health insurance coverage.

"We are in a moral dilemma with this drug," said Abbey S. Meyers, executive director of the National Organization for Rare Disorders, an advocacy group for people suffering from rare diseases. "Some kids are not insured, and they are not going to be able to afford it. Even if the family is insured, it cannot afford the 20 percent co-payment" so common with many major medical insurance programs that cover prescriptions.

So far, 55 new orphan drugs have been approved by the FDA since the act was passed, compared to 34 before the act. Currently, 176 medicines are being tested for rare diseases, according to the Pharmaceutical Manufacturers Association, a trade group representing the major drug companies. The FDA lists more than 400 compounds at all stages of development as orphan drugs.

Ceredase is among the most expensive, but it is not the only orphan drug that carriers a high price tag.

Adagen, a drug developed by Enzon Inc. of South Plainfield, N.J., was the first enzyme replacement therapy to win FDA approval. Adagen treats a rare inherited illness called severe combined immune deficiency, in which the children fail to develop a normal immune system and suffer serious, chronic infections. Before the drug became available, patients died by age 2. Children now survive with their weekly injection, but each vial of the drug costs $2,200, putting annual treatment costs somewhere between a quarter-million and a half-million dollars, depending on the patient's body weight.

Another orphan drug—erythropoetin, also known as Epotin alpha, made by Amgen, Inc., Thousand Oaks, Calif.—stimulates the production of red blood cells. Patients with kidney failure stop making this normal body hormone and need regular blood transfusions. Treatment with erythropoetin eliminates the need for transfusions for many patients, but it costs an average of $4,500 a year for each of the 50,600 people who need it for the rest of their lives. These patients receive treatment through Medicare, putting the annual government cost for the drug at $280 million.

The anti-AIDS drug Retrovir, better known as AZT also qualified as an orphan drug when it came on the market in 1987. It

is still classified as an orphan drug. Burroughs Wellcome of Research Triangle Park, N.C., caused a furor among AIDS activists and public health officials when it initially charged $10,000 a year for the medication. With up to a million Americans infected with the AIDS virus, but not yet sick, the potential market now exceeds 200,000 patients. Currently, about 60,000 patients a year are treated for AIDS. Meanwhile, public pressure has forced AZT's price to drop to around $2,200 a year.

Human growth hormone, an orphan drug approved in 1985, costs $10,000 to $15,000 to treat the 15,000 youngsters who fail to grow to a normal height because of a pituitary disorder. Last year, sales of the hormone reached $157 million for Genentech Inc. of South San Francisco, Calif., and an estimated $100 million for Eli Lilly of Indianapolis, according to a market analysis published in Scrip, an industry newsletter.

For rare-disease patient advocates, the development of these new drugs marks the first time that medical science has focused major attention on diseases that afflict relatively few people. "There is a part of it that we are very excited about," said Karen Cohn, executive director of the National Gaucher Foundation, an advocacy group based in Washington. "But if people can't get on them because of cost, then it will be academic for most of the people who need it."

BIRTH OF A DRUG

Some of the newly released drugs, including Ceradase, have been under development for years. Roscoe O. Brady, a researcher at the National Institute of Neurological Disorders and Stroke, has been searching for the cause of and a cure for Gaucher's since 1957. By 1965, Brady proved an enzyme that broke down the fatty material from the destruction of old blood cells was missing in Gaucher's patients. That discovery suggested a treatment: inject the normal enzyme into patients and the symptoms should go away. Purifying large quantities of the enzyme, however, was difficult.

It took until the late 1970s for the NIH team to produce enough enzyme to test eight patients, including Laura Glickman. In that study, only one young boy improved, but his recovery was dramatic.

"He felt better. His spleen got smaller. His liver got smaller," Brady said. "And the best of all, his bones got better."

For the other volunteers, that formulation of the enzyme proved to be ineffective. But the experiment was promising enough for the Genzyme Corp. of Cambridge, Mass., to become interested in making Brady's drug commercially. Additional NIH studies with an improved version of the enzyme, now mass produced by Genzyme, were more successful. In the spring of 1989, a trial with 24 patients was launched to prove the effectiveness of the drug. By the following spring, the patients receiving the medication were getting better.

"Ceredase produced a clear reversal of the signs and symptoms of Gaucher's disease." Norman Barton, the clinical director of the NIH trials, told the FDA in a 1990 hearing.

In one 9-year old girl, Barton said, the disease had caused her normally tiny spleen to grow to more than 7 pounds, or 17 percent of her total body weight. Six months after treatment had begun, it had shrunk to 1½ pounds, or about 4 percent of her body weight. Normally, the spleen is less than 1 percent of body weight.

This study, published in the New England Journal of Medicine, provided the basis for FDA's approval of Ceredase in April.

The more than 30 years of research leading to a successful treatment for Gaucher's is a triumph for Brady, Barton and the NIH. For Gaucher's patients, it is the first good chance for a normal life. And for Genzyme, the company the federal government asked to transfer the technology from the laboratory to the bedside, it is a potential bonanza.

PROFITS AND POLITICS

Genzyme did not fully commit itself to Gaucher's research until 1987, when it decided to mass-produce the enzyme for the NIH clinical trials.

The company invested "between $40 million and $50 million, including buying back the rights from several partnerships," said Alison Taunton-Rigby, the company's senior vice president for biotherapeutics.

The partnerships originally were sold to raise money to fund the enzyme production. According to its 1990 annual report, Genzyme spent slightly more than $23 million to buy back those research partnerships. The company's investment in research on Ceredase is between $20 million and $30 million, Taunton-Rigby said, adding that the company will soon be investing an additional $50 million to $75 million in manufacturing facilities in the United States and France.

Based on the cost of production, which includes isolating the enzyme from human placenta, Taunton-Rigby said, the company is charging $3.50 for each unit of enzyme. The cost of treating a patient is variable, depending on the patient's weight and severity of the disease.

The standard initial treatment is 60 units for every kilogram of the patient's body weight, Taunton-Rigby said. Genzyme calculates that the average Gaucher's patient only weighs 40 kilograms (88 pounds) because most of the very sick patients who will be treated first are children and young adults. In those patients, the average charge for a single, 1-to-2-hour, intravenous infusion of Ceredase will be $8,400. The average adult weighs 80 kilograms (176 pounds) and will cost more to treat.

Ceredase is injected every two weeks, an average annual treatment cost of about $218,400 for each patient. This does not include the cost of giving the drug intravenously in a doctor's office.

So far, Taunton-Rigby said, more than 100 patients—most of them children—are being treated with Ceredase. Costs have exceeded $200,000 a year in some cases; others have been less.

Genzyme told the FDA in 1990 that it expects to treat between 500 and 1,000 patients by the end of 1991, and plans eventually to treat between 2,000 and 3,000 patients annually. If that many patients are treated with Ceredase, revenues in the first year could be as high as $109.2 million to $218.4 million. Taunton-Rigby, however, estimated a lower revenue for all products of the company—around $100 million for 1991, with profits of $10 million.

Company officials hope that once patients are stabilized, they can go on a lower maintenance dose of Ceredase that would be less expensive. Scientists are also testing whether low-dose Ceredase plus a vitamin regimen is just as effective as the higher dose as an initial therapy.

No matter what the final dose—or price—of Ceredase, the high cost of orphan drugs is already causing concern not only for patients but for insurers and government officials. Some leaders in Congress think that overall, the drug companies are abusing the Orphan Drug Act.

Last year, Waxman led the effort to amend the act to inject some competition into the orphan drug market; the amendment was vetoed by President Bush on the grounds that it stifled competition.

Waxman is now considering a cap on orphan drug sales. If a drug's sales exceeded a financial threshold, then the company would lose its orphan drug monopoly.

"That would clearly identify drugs which are not orphan drugs as the term is traditionally used," Waxman said. "These drugs are not orphans because they have parents willing to invest in their future."

Legislation to introduce a sales cap would probably cause a major fight since drug companies already oppose such limits. "It would be a disincentive to develop new drugs," said Thomas Copmann, executive director of the Pharmaceutical Manufacturers Association's Council on Drugs for Rare Diseases. "We already have enough of those."

HITTING THE INSURANCE CAP

Congressional amendments will not change some of the financial problems already faced by people with rare diseases. Glickman lost her insurance after her family was forced to sell its business and has health insurance that limits coverage for Gaucher's to $10,000 for her lifetime.

Now that Ceredase has FDA approval, a number of the country's biggest health insurance carriers, including the Travelers Group, Liberty Mutual, and Blue Cross and Blue Shield have decided that they will cover the drug treatment under their current policies.

But they are not going to cover it forever. Most health insurance policies limit the amount of coverage provided over a person's lifetime: a cap of $1 million is fairly common. Once a person uses up the lifetime maximum, he or she essentially has no more health insurance.

This is a problem hemophiliacs have been struggling with in recent years. The bleeding disorder occurs in men who are born with a genetic defect that destroys one of the many proteins involved in clotting blood. As a result, a simple cut can cause them to bleed to death.

Since the late 1960s, when physicians found a way to produce blood clotting factors, hemophiliacs have been able to prevent severe bleeding by routinely injecting themselves with these clotting factors. But when the AIDS epidemic threatened hemophiliacs because it can be transmitted by blood products, manufacturers of clotting factors changed the process to protect hemophiliacs from AIDS. That, however, caused a 10-fold price increase.

The prescription now costs about $100,000 a year, said Paul Haas, an economics professor at Bowling Green State University and past president of the National Hemophilia Foundation. "If there are [medical] complications, that [cost] goes up dramatically," he said.

Many hemophiliacs are starting to get close to their lifetime maximum; some already have run out. "As they reach those caps and run out of insurance," said Haas, who has two hemophiliac sons, "they go into a spend-down. They have to get rid of their assets so they can go on the public dole."

As more orphan drugs are approved, the cost of these therapies is going to affect more and more Americans. As they, too, run out of health insurance, the issue is expected to generate more attention from both Congress and the public.

A partial solution may come from some of the pharmaceutical companies themselves. A few have voluntary programs that provide free drugs for indigent patients. Enzon, the

producer of Adagen, has said it will help patients find funding or provide the drug free. Genzyme says it is setting up a program for people who lack the ability to pay but will not say who will qualify for assistance.

Meanwhile, Congress is struggling to find some way to hold down the cost of these new medications, while assuring that drug companies continue to invest in orphan drugs. Until there is legislation or new regulations governing federally-funded research, the drug companies can be expected to follow the current rules of the marketplace and charge whatever they can for their new products.

But the high cost of orphan drugs is also causing concern in the drug industry. As Nick Ruggieri, vice president for government affairs for Ares Serono, an Italian pharmaceutical company with a subsidiary in Boston, put it: "It [the Orphan Drug Act] is just an invitation to rip off the customers. Any drug can be turned into a moneymaker if you charge enough for it. Since you [the drug company] have a monopoly, you have the patient over a barrel."

ONE FAMILY'S STRUGGLE WITH GAUCHER'S DISEASE

(By Larry Thompson)

Gaucher's disease usually comes as a surprise. It is an inherited illness that parents can carry without having the disease themselves, and can unknowningly pass on to their children.

That is what happened to Louise and Larry Glickman twice.

Their ordeal started in May, 1973 when their 3-year-old son became feverish, cranky and inconsolable while playing outside in the hot New Orleans sunshine. After a misdiagnosis of leukemia and several months of doctors' visits, the parents learned their son had Gaucher's. A week later, Louise Glickman learned she was pregnant.

Gaucher's occurs when a child inherits two copies of a defective gene—one from each parent—that normally makes an enzyme to process a certain kind of fat. Because the gene is defective, it fails to make a normal enzyme causing the fat to accumulate in the body. As the fat slowly builds up, it clogs the liver, spleen and blood vessels in the bones, causing pain and deterioration.

Laura, the second child of Louise and Larry Glickman, also was born with a severe form of Gaucher's. Her first symptoms were anemia, daily nose bleeds and chronic exhaustion. Then she developed an enlarged abdomen as her spleen and liver filled with fat-choked cells.

"The worst was getting teased" by the neighborhood children, she recalled. "Kids would ask, "Are you pregnant?'"

In 1986, surgeons partially removed her spleen because it was crowding other organs so badly that food did not remain in her intestines long enough to be absorbed. But without a spleen, fat began to gather in the blood vessels of her bones, causing bone tissue to die. As a result, she suffered intense bone pain that would force her to lie in bed for days at a time.

"I could always feel the pain no matter what position I was in," she said.

Until the drug Ceredase was developed, doctors could do little for Gaucher's patients except treat their symptoms and make them comfortable. Laura, however, was among the first to receive a prototype version of Ceredase during a National Institutes of Health study more than a decade ago.

While she did not show any improvement with the experimental therapy, results of the study were promising enough for Genzyme Corp. to continue research on the drug.

Until 1988, the Glickmans say they did not worry about the cost of medical care for their children. While there was little the Glickman family could do to control the disease, they had good insurance through their restaurant business. For five years, they owned a New Orleans restaurant that employed 120 workers and served more than 1,000 meals per day.

"As long as we had control of our own business," said Louise Glickman, a founding member of the National Gaucher Foundation, "we had control of our own health insurance."

But when the oil bust and the Louisiana recession hit, they lost the restaurant—and, with it, their health insurance. In 1988, Larry and Louise Glickman divorced.

After a period without medical insurance, the children are currently covered under a policy that specifically limits the costs from Gaucher's disease to $5,000 a year and $10,000 for a lifetime.

As a result, the family cannot afford to pay for Ceredase, the $200,000-a-year drug treatment that was recently approved by the FDA.

Laura, however, has found a way to get the drug: she volunteered for another NIH study, and receives treatment free of charge. She makes the trip to Bethesda from her New Orleans home every two weeks in order to receive treatment.

Not long ago, she received her first treatment. As she lay on the pale orange bedspread of her hospital bed, the needle inserted into her left hand squeezed a steady flow of Ceredase into her body. A tangle of tubing and syringes pinned her right hand so that Marc Patterson, a NIH physician, could extract a milliliter of blood every five minutes to measure the level of enzyme in her blood.

In the study that started in April, NIH scientists want to find out whether, as some preliminary research suggests, adding a vitamin can make a low dose of the drug as effective as a high dose. In part, the study is aimed at reducing the cost of Ceredase by lowering its dose.

Laura Glickman is receiving one-fifth the normal dose that has been shown to be effective. She will not know whether she was in the group getting the helpful vitamin until the end of the study, which is scheduled to conclude next year.

Her mother says she feels conflicting emotions about her daughter's participation in the current study. "I have been very emotional about this," said Louise Glickman. "I am afraid to feel any kind of relief. I am afraid nothing will happen."

Laura Glickman, however, remains optimistic.

"Mostly I hope that I will grow, and I won't have any bone pain, and that I'll have a normal school year," said the 4-foot, 11-inch teenager. "And that I grow. God, that would be great."

CONGRESSMAN ERDREICH COMMENDS BIRMINGHAM GRANDMOTHER FOR AWARD-WINNING LETTER TO GRANDCHILDREN

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ERDREICH. Mr. Speaker, I'd like to call your attention to an award-winning letter written by one of my constituents, Mrs. Jeanne Weaver, to her three grandchildren, Jonathan Smalley, Justin Croninger, and Katie Croninger. The letter was selected from hundreds of entries in the University of Alabama at Birmingham's MedWise Writing Contest. Mrs. Weaver's faith in democracy, belief in diversity, and hope for the future beautifully articulates the American dream.

I'd like to take this opportunity to share her thoughts, as presented to her grandchildren, with my colleagues. Her letter reads:

DEAR GRANDCHILDREN: How proud I am to be an American! I am proud to live in America because of the great beauty of her land: the white sands of Destin beach, the Blue Ridge Mountains of Virginia, the grainfields of the prairie states, the giant Redwoods of the Northwest, the majestic craggy coastline of the Pacific, even the towering skyscrapers of Manhattan.

Though I am attached to the land, for me, America's greatness lies in her people and institutions. The distinctive character of her schools, libraries, museums, concert halls, hospitals, research labs, churches, and most especially, her democratic spirit of government reflects the vibrant and generous spirit of her people—their restless energy and love of freedom, their friendliness and neighborliness and compassion.

I am also proud of the commitment of America's people—volunteers as well as paid workers—to resolve the very real problems of racism and bigotry, consumerism and pollution, our mounting national debt, crime and drugs, and the cycle of poverty—problems that threaten the vitality of our nation.

Above all, I am proud to live in America because of the opportunities she offers her citizens. Where else could a Depression-era farm girl, like myself, rise to earn a PhD and become a college teacher?

To you, my three grandchildren, I bequeath my pride in American citizenship and the opportunities it offers to Americans to become, just as I and your parents have become, whatever they wish—a ballerina, an aerospace engineer, or even our president.

GRANDMOTHER.

THE 50TH ANNIVERSARY OF ST. GABRIEL PARISH

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. PELOSI. Mr. Speaker, I rise today to pay special recognition to the parish of St. Gabriel the Archangel in the sunset district of San Francisco, which will be celebrating its 50th anniversary of its founding on June 30, 1991.

The parish of St. Gabriel the Archangel came into being when Archbishop John J. Mitty, on June 28, 1941, appointed Father George J. Bedford its founding pastor.

The new parish community celebrated its first Mass on Sunday, August 3, 1941, in what was known as Frank McHugh's Hardware Store at 44th Avenue and Taraval Street. The furnishings necessary to turn the hardware store into a church were supplied by many people including the Mesdames of the Scared Heart and the Sisters of the Holy Family, the

church supply stores of the city and many generous parishioners.

A building fund committee set to work at once to raise the funds necessary to construct the permanent St. Gabriel Church. The original church has been enlarged twice bringing its present seating capacity to 800. Between 1948 and 1954 the rectory, convent, and auditorium-gymnasium were completed.

St. Gabriel School was opened in February 1948 under the direction of the Sisters of Mercy, Burlingame who welcomed 423 students to five grades. At that time, with an enrollment of 1,200 students, St. Gabriel was the largest Catholic elementary school west of the Mississippi River. Over 3,000 alumni claim St. Gabriel as their alma mater.

St. Gabriel's parishioners are grateful for the dedication of the pastors who have led and served St. Gabriel parish over these 50 years and for the many fine priests who assisted them. Msgr. George Bedford, pastor until his death, was succeeded by Msgr. Francis Quinn. Msgr. James B. Flynn became pastor in 1979 when Monsignor Quinn became bishop of Sacramento. In 1987, Monsignor Flynn became director of the diaconate program at St. Patrick's Seminary and St. Gabriel welcomed its fourth and present pastor, Father Carl A. Schipper.

Over the years, numerous parish organizations, such as the Liturgy Committee, the Ladies Sodality Legion of Mary, the Peace and Justice Committee, the Ulloa Seniors, the Cross Roads for Young Adults, the youth ministry and the parents organizations have worked to meet the spiritual and social needs of the parishioners.

San Francisco is proud of the reputation the parish has for involving so many of its parishioners in the life of the parish and its direction. We are proud of the generosity of the parishioners in responding to appeals for contributions of time, energy, and finances to meet the many needs of our San Francisco community. We are proud of the ethnic and cultural diversity of St. Gabriel which reflects the richness of San Francisco as a whole.

I commend St. Gabriel for their many contributions to the community and congratulate them on their 50th anniversary. I know that St. Gabriel's Parish looks with pride and joy at time past and with confidence to the futrue and that the parish's 1,800 families will be drawn together by a continuing desire for renewal of the faith and greet the 21st century with courage and trust in divine providence.

REESE AIR FORCE BASE AND LUBBOCK, TX—A PARTNERSHIP FOR 50 YEARS

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COMBEST. Mr. Speaker, I would like to tell the House of Representatives about a successful partnership between Reese Air Force Base and Lubbock, TX, that has existed for 50 years.

On June 26, 1941, the War Department accepted an invitation from the citizens of Lubbock to form an Army Air Corps flying training field after the citizens of Lubbock County donated 2,000 acres to the War Department. Since that day in 1941, this west Texas community has embraced the airmen and women that have had the privilege of serving at Reese. These 50 years of training top quality military pilots has been marked with cooperation and support from both base officials and the public.

Reese Air Force Base has had a long and distinguished history of training topnotch military pilots. By the end of World War II a total of 7,008 bomber, fighter, and transport pilots had been trained at Reese Air Force Base. The stirring successes the Air Force displayed during Operation Desert Storm can be attributed to the training regimen at Reese. At any given time, an estimated 30 percent of the pilots flying Air Force aircraft during Operation Desert Storm were Reese Air Force base-trained graduates.

During these times when military bases are being streamlined and closed, Reese begins its next 50 years with expanded responsibilities. Reese continues its mission because its officers and personnel have demonstrated responsible handling of resources and have taken initiatives to do the job efficiently and cost effectively. The arrival of the T–1A Jayhawk, which will be the third pilot training aircraft, will enable the base to implement the Specialized Undergraduate Training [SUPT] Program.

It is a job well done, truly a mission accomplished daily at Reese Air Force Base.

PAINESVILLE FIRE DEPARTMENT 150TH BIRTHDAY

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ECKART. Mr. Speaker, I rise today, July 19, 1991, in commemoration of the Painesville Fire Department's sesquicentennial birthday. One hundred and fifty years ago tragedy struck Painesville, OH. A fire destroyed the materials at the new site for the Lake County courthouse and delayed its completion until 1852. This disaster gave birth to an institution that has survived the test of time, including a civil war and two world wars.

The city of Painesville established its fire department in 1841. It has provided continuous service to the city and the surrounding communities of northeast Ohio since that time. The first recorded mutual aid call made by the Cleveland Fire Department included pumpers from the Painesville Fire Company.

After continuously improving fire-fighting skills and equipment in 1921, the Painesville Fire Department became a paid professional fire department. Through the years the department has expanded in several ways, including pioneering the emergency medical service system.

Now under the leadership of Chief Jack A. Martin, the sixth fire chief in the history of Painesville, the department continues its outstanding service to the community.

Congratulations to the Painesville Fire Department on 150 years service. This year the department shares the admiration of myself, the people it serves and that of the entire country.

THE RURAL SCHOOLS OF AMERICA ACT OF 1991

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. PERKINS. Mr. Speaker, finally, after too long a period of neglect, education has moved to the top of the national agenda. We are starting to realize how crucial the education of our children will be for the continued success and prosperity of our great Nation. However, little attention has been focused on the desperate state of America's decaying rural school system. Rural America faces an educational crisis of epidemic proportions.

Approximately one out of every four of America's rural children live below the poverty line, and the isolation and small size of many rural schools present unique transportation and access problems. The average rural school building is over 45 years old and in serious disrepair. Rural pre-schoolers have less access to early childhood development programs than other children, and rural high school graduates are less likely to attend college than their peers. Rural schools also face many of the same problems as other schools, such as substance abuse, declining graduation rates, dropouts, and teacher shortages. Unless immediate action is taken, the educational paralysis of our rural children will doom an entire generation, and perhaps a way of life, to extinction.

Today, I am proud to introduce the Rural Schools of America Act of 1991, which begins to address the often overlooked needs of education in rural America. This bill provides dollars for goals, as well as dollars for the rebuilding of the physical infrastructure of the rural school system.

The Rural Schools of America Act will provide funding for school districts to implement tutoring and mentoring programs, prepare more rural graduates for postsecondary education, emphasize daycare and early childhood programs, and recruit and train qualified teachers.

The Rural Schools of America Act will provide much needed funds for the repair and renovation of school buildings, and the construction of desperately needed new facilities. Many rural districts have been hit with the unexpected cost of removing asbestos, lead and radon, and this bill will help make these schools safe for our children. The Rural Schools of America Act will enable schools to become more accessible for the disabled and provide improved services for homeless students.

One important development we see nationwide is the emergence of local coalitions in support of education. This legislation will encourage parents, teachers, community groups and area businesses to work together to formulate a local education strategy. In addition, the Rural Schools of America Act establishes a National Rural Regional Education Center in

each region to conduct research, evaluate and monitor activities, and disseminate information. This legislation calls on the President to establish a White House Conference on Rural Education to mobilize Federal agencies and coordinate a national rural strategy, as well as appointing an Assistant Secretary for Rural Education.

The Rural Schools of America Act of 1991 will begin the task of addressing the educational needs of rural children in America. For many of these children, education represents the sole opportunity to change their lives. I would ask for the support of my distinguished colleagues on this vital piece of legislation. I hope many of you will see fit to join me and cosponsor this legislation.

TRIBUTE TO THE VETERANS AFFAIRS MEDICAL CENTER IN TUSCALOOSA, AL

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to the Veterans Affairs Medical Center in Tuscaloosa, AL, for its recent accomplishment as the recipient of the 1991 President's Council on Management Improvement Award for Management Excellence. The Tuscaloosa Veterans Affairs Medical Center was chosen for this award for its significant improvements in the quality and productivity of Federal services. Chosen from among the 36 Federal agencies that were nominated, this award is quite a honor. It was the only Veterans Affairs medical facility in the country to receive this award.

I would like to take this opportunity to tell you about the VAMC Tuscaloosa. It is 1 of 41 Veterans Affairs medical centers in southern region 3. It is a predominately psychiatric facility that offers acute outpatient and nursing home services. Located in west central Alabama, the VAMC is affiliated with the University of Alabama Medical School. During its existence, the VAMC has truly proven its responsiveness and dedication to the public.

Mr. Speaker, I know the Members of the House will join me in recognizing the commitment of the Tuscaloosa Veterans Affairs Medical Center in improving the quality of services to our veterans. Again, I extend my congratulations to the Tuscaloosa Veterans Affairs Medical Center and encourage all Federal agencies to strive to match the outstanding efforts of this year's recipient of the President's Council on Management Improvement.

TRIBUTE TO DR. DENZIL BARKER

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Dr. Denzil G. Barker, a retired physician who served the people of Knott County, KY, for over 40 years. This well-liked and admired eastern Kentucky doctor died at age 75 on March 1, 1991, in Hopkinsville, KY, after a long illness.

Dr. Barker retired from his medical practice in Hindman, KY, in 1987, at which time he and his lovely wife, Gladys "Mickey" Barker, moved to Hopkinsville, which is in my congressional district, to be closer to their daughter. Prior to that, the Barkers had been residents of Hindman for 43 years.

Denzil Barker was born at White Oak, KY, which is located in Magoffin County, on March 16, 1916. He graduated from Caney Junior College which is now Alice Lloyd College. He later received his bachelor of arts degree from the University of Kentucky and his medical doctorate from Tulane University. While at the University of Kentucky, Dr. Barker had the distinction of being Kentucky's candidate for Rhodes scholar.

During World War II, Dr. Barker served as a medical officer in the South Pacific with the U.S. Army. After the war, he returned to the mountains of eastern Kentucky to establish his medical practice as he had pledged he would do while studying at Caney Junior College.

For 35 years, Dr. Barker served as chairman of the Knott County Board of Health and during his years of practice he received recognition and numerous honors. In 1962, he was the recipient of the Kentucky Citizen Doctor of the Year Award, was a charter member of the American Academy of General Practitioners and also the American Academy of Family Physicians.

In addition to his medical practice, Dr. Barker served his community in other ways. He was twice elected as mayor of the city of Hindman, and he was a member of the board of trustees of Alice Lloyd College. He was a longtime member of the First Baptist Church in Hindman, where he served as chairman of the church's board of deacons and as a Sunday school teacher. In 1988, he was inducted into the Knott County Hall of Fame, and the week of his retirement was designated as "Dr. Denzil Barker Week" in Knott County.

Dr. Barker was a beloved figure in Knott County and surrounding communities and he was respected by all of us who knew him.

In addition to his wife, he is survived by two sons, Dean Gregory Barker of Houston, TX, and Mark Turner Barker of Knoxville, TN; a daughter, Denzila (Dennie) Burke of Hopkinsville; his mother, Maude Barker of Hazard, KY; one brother, Herbert Barker of Point Pleasant, WV; and five grandchildren.

Dr. Barker's talented daughter, Denzila (Dennie) Burke, was a field representatives for our First Congressional District office in Hopkinsville during 1983–85.

My wife, Carol, joins me in extending our sincere sympathy to the family of Dr. Denzil Barker, a beloved physician who served his community well.

THE 29TH INFANTRY DIVISION 50TH ANNIVERSARY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to acknowledge the celebration on Saturday, June 29, 1991, at Fort Meade, MD of the 50th anniversary of the mobilization of the 29th Infantry Division for World War II.

It was this division that was part of the Allied forces that stormed the Normandy beaches on D-day, June 6, 1944. Comprising mostly Marylanders and Virginians, it was the only Guard division that participated in the greatest amphibious assault in history.

Reactivated in October 1985 as the only light infantry division in the National Guard and one of five in the U.S. Army, the 29th Infantry Division remains a Maryland-Virginia unit, which has reached a high level of combat readiness in a short time.

The highlights of the celebration will be a pass in review and recognition of our Operation Desert Storm and Desert Shield troops and those veterans who served with the division in World War I and World War II.

My greatest thanks goes to all of the veterans who served with the 29th Infantry Division. I speak for all Americans in saluting this division for serving our country so well and protecting freedom and liberty throughout the world.

TRIBUTE TO ERICK J. BONANG

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is of Erick J. Bonang of Troop 1 in Coventry, and he is honored this week for his notworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Erick Bonang removed and replaced a deteriortated deck at St. Vincent dePaul Church in Coventry. Removal of the deck created a safe and healthy

environment for all those in the community who use the church.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Erick Bonang. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Erick Bonang will continue his public service and in so doing will further demonstrate himself and consequently better his community. I am proud that Erick Bonang undertook his Scout activity in my representative district, and I join friends, colleagues, and family who this week salute him.

H.R. 2258

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. LONG. Mr. Speaker, a major report sponsored by the Progressive Policy Institute has been issued on the roads out of poverty and, in particular, on microenterprises.

Microenterprises are small businesses with one to five employees. Increasingly, it is becoming clear that one way to break the cycle of poverty in which so many families and individuals find themselves is to start their own microenterprise.

However, Government programs to alleviate poverty are overwhelmingly directed at relief efforts rather than at efforts to attack the root of poverty. In fact, these programs discourage entrepreneurship. The AFDC Program will often cut off benefits to poor individuals who are trying to start their own businesses as they accumulate start-up capital for the business.

This report makes several recommendations for the promotion of microenterprises and other self-help strategies to address poverty. These recommendations are reflected in legislation, H.R. 2258, introduced in the 102d Congress by the chairman of the Select Committee on Hunger, Representative TONY HALL.

Microenterprises are a common sense solution to the problem of poverty and I urge my colleagues to lend their support to the promotion of these businesses and cosponsor H.R. 2258.