SENATE—*Thursday, July 11, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, the Reverend Catherine Schuyler, Ponckhockie Congregational Church, Kingston, NY.

PRAYER

The guest chaplain, the Reverend Catherine Schuyler, Ponckhockie Union Church, Kingston, NY, offered the following prayer:

Let us pray:

O God of life and of love, we ask Your presence here in this Chamber this morning. We pray for the women and men who gather here to consider and decide on laws for this Nation.

O God of justice, we pray for Your children who are poor, for families without a roof over their heads, for babies who will go to sleep tonight without a decent meal. Give us wisdom and compassion to use the power and gifts given each of us to act courageously on their behalf.

We remember especially today our sisters throughout the Nation who struggle against injustice in our society. We celebrate Your hand as it works through groups which encourage women to recognize their potential and which call all Your people, men and women alike, to treat one another with the respect due to children of God. Yet as we celebrate, we know, too, that the struggle continues. Open our hearts and our minds to see the sexism and racism in our society. Work with us and within us that we might be part of transforming this world into the world that You have envisioned for us, our lives into the lives for which You have created us, where women and men and bricklayers and stockbrokers live as equal partners, where nation does not lift up sword against nation, and where children teach us to live in peace with one another. O God, inspire us to make Your dream our dream, and use us to make that dream a reality. We pray in Your holy name. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 11, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD 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 10:30 a.m., with Senators permitted to speak therein. The Senator from Nebraska [Mr. KERREY] is permitted to speak between the hour of 8:30 and 9:30 a.m. The time between 9:30 a.m. and 10:30 a.m. is under the control of the Republican leader or his designee.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, may I ask the indulgence of my friend from Nebraska if I might speak for not to exceed 2 minutes?

Mr. KERREY. Yes. I look forward to it.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

THE GUEST CHAPLAIN

Mr. SIMPSON. Mr. President, it was a great pleasure to be in the Chamber to hear the remarks of Cathy Schuyler, and I thought before the Senate convened, your introduction and noting that the two whips were on the floor at the same time at a very early hour, was certainly an extraordinary event all of its own.

This young lady is a niece of very close and dear friends of ours from Wyoming, David and Mary Smith. Her father, if I recall, and grandfather were both involved as clergy, or at least her grandfather. So there is a long history of those in that family serving their faith.

It was a lovely prayer, and we thank her for it. It is a great honor to be present as she addresses the U.S. Senate.

I thank you, Mr. President. I thank Senator KERREY.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is now recognized until the hour of 9:30 a.m.

Mr. KERREY. I thank the chair.

(The remarks of Mr. KERREY pertaining to the introduction of S. 1446 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERREY. I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). The distinguished Senator from Nebraska [Mr. KERREY] yields the floor and suggests the absence of a quorum. The clerk will call the roll.

The 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.

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I have been designated by Senator DOLE to control the 1 hour of time in the unanimous-consent request last night.

The PRESIDING OFFICER. The Senator is recognized as the designated Republican leader.

Mr. SYMMS. I will control the time. Several Republican Senators will be here to speak on the issue of tax fairness.

TAX FAIRNESS

Mr. SYMMS. Mr. President, there are many ways to look at fairness. We spend much of our time in Congress talking about fairness, or the issue of fairness. In each instance, if you listen to whoever is speaking about fairness, and you get their view of what fairness is. It is always redefined to suit the beliefs and the ideas of the Senator or the person who is talking.

Everybody talks about: Does their State get a fair shake? Do we get our slice of the pie? Yes? Well then that is fair. If we do not, it is just not fair. Those are the kinds of issues people talk about.

I learned at a very young age, in the orchards of Idaho as a young man, that someone has to grow an apple before someone else can divide it up. Washington, DC, primarily, has been in the business of dividing them up.

Do employees have to pony up to meet some new Government mandate? That may seem fair to the special-in-

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

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terest group and to the Senator who pushed through the mandate, but you can bet your boots that the employer that is forced to pay for some mandated benefit does not think it is fair, such as some small business struggling to keep its head above the water.

The way we typically look at fairness in tax policy is who pays what, and how much does the other guy pay. Here you find the soak-the-rich crowd, the practitioners of the politics of envy, those wonderful people who brought you luxury taxes just last year in the omnibus tax increase bill.

Funny thing, though; it seems that the very same luxury taxes are devastating the industries in the home States of the soak-the-rich crowd. Suddenly luxury taxes are no longer accepted as a means of pursuing the politics of envy.

I think this is important, Mr. President—and I want to make a little point, as I digress here. Congressman ARMEY, who is the ranking member of the Joint Economic Committee, of which I am a member, Congressman GINGRICH, and Congressman MICHEL, are considering making an inquiry into a dynamic model estimate done on whether luxury taxes raise or lose revenue for the Treasury.

I believe what will happen is that if anybody uses an honest model, they cannot help but come to the conclusion that the luxury taxes imposed on the people of this country last year in the name of tax fairness, in the name of raising revenue to close the so-called deficit, are actually a net loss to the Treasury. That is my view of it.

But we in the Congress have allowed the bean counters in a Joint Tax Committee to become more powerful than the Senators on the Finance Committee, and the Members on the House Ways and Means Committee, because they compute the projections of tax revenues. And we let that drive our taxmaking policy.

I am saddened by the devastation taking place in the mink industry in my home State of Idaho. I stood on the floor right at this seat, at this chair, last fall, and said: When we talk about taxing fur coats, we are talking about causing unemployment for the mink producers in my State of Idaho.

In addition, we are talking, in many cases, about taxing some young working woman in New York City, or in Minnesota, or in one of the northern regions, who decides it is a good investment to buy a fur coat for the use they get; and we have destroyed their ability to buy the coat, and we have devastated the people who earn their living raising minks.

The same thing is happening with the boat building industries. The people are going to the Bahamas to buy their boats, and they are not buying the boats manufactured in Rhode Island, or Seattle, WA, or somewhere else where boats are manufactured in this country. So those poeple who work to build boats have lost their jobs.

Closely related to this soak-the-rich crowd are those who think that the poor should pay no taxes at all—that is the other side of the equation—as though being poor excuses a citizen from carrying any financial responsibilities for citizenship. This is a high-risk proposition in itself.

Advocates of this school are constantly coming up with new ways of turning the income tax into an income support program. They want to increase the flow of Federal money to the poor, but they cannot pass new spending programs; so they turn the income tax into a spending machine. Their main tools in this are refundable tax credits, like the earned income tax credit, the child care tax credit, and so on.

And then, between these two groups, you can occasionally find someone taking a look at middle-income people. And what they find are families struggling under a mountain of Federal, State, and local taxes.

Oftentimes, Mr. President, family values become an issue in politics, and oftentimes it is totally misunderstood by people who write about it. The way to help families in America is to maintain a low-tax policy, so families can have some of the money they worked so hard for to raise and educate their own children, to pay their own way.

Defining tax fairness in terms of how much tax one group pays relative to another is important. But at least as important is the question of how much tax the country as a whole has to pay. We have been arguing about relative tax burdens and we forget that taxes have been soaring in absolute terms.

So when we argue whether the rich pay enough taxes, or the poor pay enough taxes, or the middle-income pay enough taxes, the fact is, Mr. President, that everyone is paying too many taxes. Often, we hear these reports, particularly about the middle-income people, that they are struggling. We read about how it takes two earners to make ends meet.

We read about the middle-class families who struggle with the bare necessities, because they have nothing left after taxes and a mortgage payment on a modest home. Why is it that people have to work harder just to keep even?

It is very simple, Mr. President. It is not easy to solve, but it is not that complicated to figure out. One does not have to be a rocket scientist to understand this. The Federal Government takes more money out of people's paychecks.

In 1984, the Federal Government collected $298 billion in individual income tax when measured in 1982 dollars. In 1992, the Federal Government is expected to get over $400 billion, again measured in 1982 dollars. That is a 34-percent increase in just 7 years. A 34-percent increase, Mr. President, in 7 years.

And that increase did not come about because we shifted taxes from corporations to individuals, because during the same period, in 1982 dollars, corporate income tax payments will go from $57 billion to $77 billion, an increase of over 35 percent. Thirty-five percent increase on corporate taxes. So what it tells us is that someone in Washington needs to shut off the spending machine so we can reduce the tax burden.

Just to complete the picture, when all the receipts of the Federal Government are added up, that is, individual and corporate income, sales, estate, Social Security taxes, and so on, the Federal take will go from $666 billion to $881 billion.

No wonder people are groaning. No wonder the middle-income people are complaining in America. No wonder people are frustrated. They keep working harder, and the Federal Government keeps taking more and more. And these numbers I have given are all real figures. They are all adjusted for inflation, so we are comparing apples to apples, not apples to oranges.

No matter what we say about tax fairness, when the Federal Government is taking this much out of our pockets, it is unfair. There is nothing fair about excessive taxation, imposing a burden on good, honest, hard-working people in this country who are trying to raise their families. It is just plain wrong.

Maybe we should change the ratios. I do not know whether they are right or they are wrong. In my view the relative ratios between upper- and middle-income people is probably a legitimate case for discussion. We could look at that. And I can assure the President—and I am sure the Presiding Officer knows this, too—that he will hear about this ad nauseam, that one group is not paying enough taxes and one group is paying too many taxes and so forth. But we need to take a longer, more intense look at how much we are taking out in the big picture, in total. That is where the problem is. And then, if any changes are made, it should be made in terms of reducing taxes.

Many of the people who are talking about tax fairness on the other side of the aisle, the crowd that I call the soak-the-rich crowd, the liberal Democrats, are never as interested in tax fairness as they are in finding excuses to tax further. We should call them the tax further crowd rather than the tax fairness crowd. I think that there has been a semantic mixup.

The soak-the-rich crowd want to tax someone else who they think is not paying enough taxes. Tax fairness for them is a smokescreen for tax increases. I can only believe that they are unfamiliar with the numbers that I just got through quoting about how

taxes have increased. I frankly do not understand how anyone could propose an increase in taxes when they have increased over a third in just the last 7 years. Clearly, the real agenda is to increase taxes so they can pay for more Government spending programs to buy more votes from special interest groups that they need to sustain their majorities in the Congress.

We must not get ourselves trapped in the game of who should pay more. Nobody should pay more taxes. Many Americans should be paying less taxes. Enough is enough, and we have already gone past too much.

People are sick and tired of Congress fiscal game, phony budgets, phony budget deals. That is why I was so disappointed in the administration last fall when they played into the hands of the Congress phony budget game instead of calling it what it was, a giant tax increase, and vetoing the whole thing and calling for a budget freeze. If we could get back on a flexible freeze, we would not have to ever be talking about raising taxes in this country. We could talk about some real spending savings, and then a freeze in spending would bring about the ability to reduce taxes.

Mr. President, there was a wise political leader who once said you can fool all the voters some of the time, but you cannot fool all the voters all the time. They are getting wise to the game. Whatever the politicians and pundits are trying to tell them, the American voters know how hard they have to work and they know how much of their product is being taken away from their labor and given to the Government, and they are getting sick and tired of it.

We are due for another tax revolt. It has already started in my home State of Idaho. They call it the 1-percent initiative, and I endorse the idea of it. If you want more government and less freedom, vote for more taxes. If you want more freedom and less government, vote for less taxes. It is not that complicated to figure it out. It is starting in other States, and I hope it roars across this country like a prairie fire, a wildfire. State governments which have failed to control the purse strings during the good times are now finding a very angry electorate when they talk about raising taxes to fill their deficit. Do not be surprised if it begins to happen in your home State, I say to colleagues. Do not be surprised if it spreads to a nationwide demand for lower taxes.

Enough is enough. It is time to roll back the wave of tax increases that the Congress has slipped through by hook, and more often, by crook over the last few years.

You want tax fairness? Great. Try leaving more in the paycheck of American workers. That is the best thing you can do to give them tax fairness. Try leaving more for retirement pension income. If you are worried about tax fairness, that is where you should look—roll back the tax increases.

We should start by rolling back the payroll tax. We should start by reducing the tax on capital assets. We could pass those two things together, if the Congress would demand and take control of the tax projections of revenues instead of allowing static estimates. The technocrats look through glasses with eyeshades and calculate things all based on the past, nothing based on a future-looking dynamic model.

That's why we always fall into the trap of raising more taxes. If we would freeze the budget—refuse to raise spending levels across the board of the Federal budget—we could reduce the payroll tax and reduce the capital gains tax simultaneously, put more money in the hands of the families of America to spend for their own needs, restore more liquidity in the real estate and financial markets, and create more opportunities for more job creation. And the combination of those two tax cuts would actually generate, in my view, a stronger, healthier economy, take more revenue out of the Treasury, and leave more money to be kept at home, in people's pockets.

But if we continue to allow the folly of the static projections for taxes in this country, we are going to continue to be raising taxes, raising taxes, raising taxes, and it will bring about a long overdue tax revolt. The sooner it gets here, the happier this Senator will be.

I see some of my colleagues on the floor. I thank them for being here. I thank the Senator from Alaska [Mr. MURKOWSKI], who was here first, and I yield Senator MURKOWSKI 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent for permission from my colleague from Idaho that I may proceed as if in morning business for 3 minutes.

Mr. SYMMS. I am certainly happy to yield.

The PRESIDING OFFICER. Without objection, the distinguished Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair and my colleague.

(The remarks of Mr. MURKOWSKI and Mr. STEVENS pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SYMMS. Mr. President, I thank the Senator from Idaho for his indulgence. I want to say a word before I yield to him, with reference to what I said before about dynamic models. What I said about the Joint Tax Committee is certainly nothing personal. So anyone from the Joint Tax Committee who may be watching, the law requires that you do static models. I understand that. But that is the failure of Congress, to allow static estimates to continue to go on in the face of reality. I do not know what it takes to hit the congressional mule over the head to recognize it.

I think the luxury tax in some ways is a blessing in disguise because the soak-the-rich people have figured out that when they tried to soak the rich by taxing boats, what they did is just about shut down the boating industry in their respective States. Maybe what we can do is go in and amend the CBO model, and maybe we could have them use a dynamic model instead of the static model. Maybe if we did, we could do that and not continue raising taxes every year to no avail.

With that I yield to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Idaho.

TAX FAIRNESS

Mr. CRAIG. I thank my colleague for yielding and thank him for this special order that relates to tax fairness, an issue that clearly ought to be debated on this floor and not demagoged. Clearly it ought to be understood by American citizens and listened to very clearly, because I have always been interested in the unique definitions that politicians wish to place on the word "rich." That definition basically says, I know what rich is, and I am not. Meaning it is always the other person. And it is always the other person upon whom we would like to perpetrate a tax increase. Most assuredly that became the game in the last Congress, a phenomenally unfair game, to suggest that in this country it is somewhat un-American to be rich.

It is not a competition, Mr. President, between rich or poor. These young people who are here today, working on the floor of the U.S. Senate, I would hope embody the American dream, and that is to gain an education and somehow improve their lot in society so that in the long term they might end up being—more well off than their parents? More well off than their grandparents? Dare we use the word, they might be richer? Less poor?

I certainly hope so, because that is clearly what the American dream is all about. In the last 12 to 14 months, somehow, political parties in this country have tried to adjust their positions, and one party in particular has said we want to tax the rich because somehow they are getting away unfairly in the whole scheme of the system.

I suggest if we make it un-American to be rich, then we will all become equally poor in a society that rewards individual initiative. Because, to become equally poor means we stifle individual initiative, and that is not what tax law should be all about.

In the debate over tax fairness, the debate of the rich versus the poor is fundamentally a debate over the redis-

tribution of income and the use of tax policy as a tool of social engineering in this country, instead of addressing the real economic concerns of America's working men and women.

Yesterday in the local press here, Michael Boskin, the Economic Adviser to the President, was quoted as suggesting that we are working our way out of this recession in a slow but sure process. Yet at the same time last year real spendable income declined. We have States across this country that are at this moment deadlocked in debate because they cannot meet their budgets because their revenues have declined. And they are all talking about a tax increase, or at least some of them are. And all politicians at the State level are ducking and running for cover because they are suggesting that they might have to increase taxes.

The reason that is happening is because we are in a major economic downturn in this country and nobody is willing to talk about it; not before an election. The economic indicators in this country are static, in the sense that they designed for an industrial state economy. Yet we have economists, and those of us who follow them and talk about what they predict, who suggest that the last recovery, one that sustained itself longer than any recovery in the late 20th century, was based on a service growth economy. It was the dynamics of that service economy that pulled us out of the last recession and sustained the economic growth in this country.

We do not have adequate economic indicators today to measure the service economy. We can measure investment. We can measure debt. We can measure industrial state economy. But we cannot measure service economy. Yet the very entities within the general economy that use service, local and State units of government and the Federal Government are the ones that are essentially in decline at moment—part of the general decline in this country because consumers are not doing as well as they should. They have invested themselves to the limit.

Why is that so? Let me suggest some of the things my colleague from Idaho suggested a few moments ago. Is it possible that people do not have the kind of money to spend today that they would like to have? And if that is the case, why is it happening? I suggest the top 10 percent of America's income earners pay half of the taxes in this country today at all levels and are being taxed at an all-time high. The top half of the income earners pay more than 90 percent of all taxes in this country today.

Soak the rich? I suggest we have an equitable tax base that draws from all of us a fair share without the kind of partisan wrangling that plays the game that ultimately produces the tax fairness question that we are here on the floor today to discuss.

Tax fairness debates focus on how to create an economic climate that gives all citizens a fair chance to improve their economic well-being. That is what a good tax law should be all about.

A real tax fairness question means removing tax burdens from American families. In 1948 a family of four at the median income level paid 2 percent of their income on the Federal income tax. Two percent. Today, families pay 24 percent of their earned income to the Federal Government. I suggest that is not very fair. Then if you add State and local government taxes it nears the 30-percent level, and that does equate to suggesting that this is tax at an all-time high level.

We did tax reform in 1986. We did tax reform in 1981. And we changed it all in incremental ways over the course of the last decade to a point that we are back to where we were in the late seventies, saying that all Americans are being taxed at a higher level today than they ever have. That is a fact and that is why my colleague from Idaho is very accurate in suggesting that tax revolts are beginning to emerge around this country at the State level as they did in the decade of the seventies because the American taxpayer is saying "Why are you taking from me my hard-earned labor? And I can no longer afford to provide for my family at the level that I would like to. And last year my gross income dropped at times when others in the world economy, their gross incomes were increasing." That is reality, and that is why we are here on the floor today, to suggest that is our problem that we need to address.

We need to address such issues as cutting payroll taxes, increasing personal exemptions for dependents, and an earned income tax credit. How about completly eliminating tax on capital gains due to inflation? If we want to unleash old money for new investment and create new jobs, then I suggest that the poor do not create jobs.

They are the ones who are looking for jobs. Yes, wealthy people and their investments create jobs and it is that job that provides the American dream that begins the upward mobility process that all young people are looking for and asking for today and turning to us to suggest that we should think about providing it for them. Those are the dynamics of an economy that truly address tax fairness—reforming the alternative minimum tax that increases the capital cost of U.S. business, changing the Tax Code bias against business investment.

There is nothing wrong with business, and I suggest that we as politicians could not engage in the business here on the floor of discussing where we are going to put all these resources that we call tax dollars if it were not for the business climate of this country cranking them out on a regular basis and if it were not for the working men and women of this country cranking out their tax dollars on a regular basis. If we want to provide more services of Government, we have to provide an economic climate that generates more income for this country and allows more to be retained.

Let me close by once again thanking my senior Senator from Idaho for bringing to the floor what has to be a fundamental debate of the decade of the nineties: Fair and equitable taxing in this country in a way that keeps and continues to generate economic well-being and growth so that all can prosper; that we do not divide society; that we do not suggest that it is somehow wrong to be rich or to aspire to be rich.

Let me close by suggesting, Mr. President, that if we play the game, we will all ultimately become equally poor.

I yield back the remainder of my time.

Mr. SYMMS. Mr. President, I thank my colleague from Idaho.

Let me say to the Senate how blessed I have been to have spent my first 10 years in the Senate with my then-senior colleague, James McClure, and now to have as my junior colleague LARRY CRAIG. I have been very blessed, and I am appreciative of that.

ECONOMIC RECOVERY TAX ACT

Mr. KASTEN. Mr. President, this summer marks the 10th anniversary of the Economic Recovery Tax Act, ERTA. The principal element of this program was a 25-percent across-the-board reduction in income taxes. This program was a tremendous success; pulling the economy out of recession, sparking the longest peacetime economic expansion in U.S. history, creating 20 million new jobs, dramatically reducing inflation and interest rates, and increasing the living standards of Americans in all income classes.

By the late 1970's, Government had grown too big and too powerful, taxes were too high and regulation was excessive. The American people demanded a change and they got it. President Reagan and then Vice President Bush implemented an agenda of lower taxes and less regulation. The fundamental premise of the Republican agenda was that a vigorous and growing economy was the best means of helping people, and that the most important engine of economic growth is the private sector. Without the Reagan-Bush agenda, there is no question that Government would be vastly more intrusive today than it is. For example, without the 1981 tax cuts, the average American family would now pay $1,500 more in income taxes every year.

ERTA was of particular benefit to low- and middle-income families be-

cause it mandated that tax brackets be indexed upward each year according to the rate of inflation. This eliminated inflation-induced bracket creep whereby cost-of-living increases earned by workers simply pushed them into higher tax brackets. ERTA put a stop to the age old trick of using Government-induced inflation to generate higher taxes.

While the economy grew and incentives to work increased, tax revenues doubled during the decade. In fact, by reducing the attraction of tax shelters and increasing the incentive to earn more income, ERTA resulted in the wealthy paying far more in income taxes by the end of the decade than at the beginning. By comparision the income tax burden on the poor was dramatically reduced. This trend culminated in the Tax Reform Act of 1986, when several million lower income workers were completely removed from the income tax rolls.

During the 1980's, the poor experienced real economic progress. Between 1983, the first full year of the expansion produced by the tax cuts, and 1989, real family income for the lowest 20 percent of the income distribution rose nearly 12 percent, approximately the same rate as for all other income levels. The economic growth sparked by the recovery also enabled Government to do more to help the poor. When all Government programs are taken into account, the average income of households in the lowest 20 percent of the income distribution is $5,500 higher per household today than in 1983.

One of the most important lessons of the 1980's is that tax cuts and economic freedom help all Americans. We must carry this lesson into the 1990's and continue to limit the ability of the Federal Government to shackle American families and businesses with punitive taxes and excessive regulations.

Mr. SYMMS. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

TAX FAIRNESS

Mr. HATCH. Mr. President, I rise today to address the recurring rhetoric that resounds in this Chamber regarding the issue of tax fairness. There have been many assertions that the American tax system is regressive and unfair. The claims that high income taxpayers in this country are not paying their fair share of income taxes are simply not true. The U.S. tax system is more progressive today than it has ever been. A study released by the National Center for Policy Analysis found that the wealthiest 50 percent of taxpayers now pay 95 percent of all income taxes and 83 percent of all Social Security [FICA] taxes. This makes the U.S. tax system one of the most progressive in the world.

Despite this, there are those who persist in claiming that tax fairness is an issue. Many advocate raising the tax rate on the wealthy as a way to make the tax system more fair. What they are actually proposing is to use the money a tax increase is estimated to raise to finance new or existing underfunded programs. In some ways, Mr. President, the reasons for this are understandable. The new budget rules frustrate the availability of new or increased spending by requiring that they be paid for by either revenue increases or spending cuts in some other area. So tax increase advocates see few alternatives to raising tax rates as a way of paying for unmet social needs.

This soak-the-rich approach to taxes, however, is misguided and will not benefit our country. Taking from the rich to give to the poor is not the solution. By raising the tax rate on the wealthy, we affect their spending and investment behavior as well as their ability to earn income. This is a fact too often ignored by policymakers. Higher marginal tax rates discourage work and investment and lead to less taxable income. This produces less Federal revenue and will ultimately lower our gross national product. Raising taxes on the rich will not generate the expected additional revenue because the dynamic effects of the tax increase on the economy are not taken into consideration. The higher tax rates become a millstone around the neck of the economy and not just the rich, but everyone eventually bears the burden of the higher rate.

Mr. President, history is full of examples of the rich changing their behavior to the detriment of the economy in response to changes in the tax rates. The belief that Congress can shift the tax burden at will from one group to another without serious economic consequences ignores these lessons.

A good example of how misguided this concept can become is the luxury tax passed by Congress just last year. This tax was designed to target only the wealthy. Infortunately, as most in Congress now recognize, the effects of this tax have been much different than intended and the weight of the tax has fallen heavily on the middle and lower classes. Instead of paying more in taxes, the wealthy have simply purchased fewer of the luxury goods affected by the tax. This has caused an economic hardship for the working men and women who produce and sell these goods. Trade associations in the affected industries have stated that the tax has caused substantial declines in sales and production, costing many people their jobs. Rather than raising additional revenue for the Federal Government, the luxury tax will likely end up losing revenue.

The luxury tax example also points out a serious flaw in our revenue estimating methods, Mr. President. The Congressional Budget Office and the Joint Committee on Taxation usually determine the revenue effects of a tax increase based solely on static implications of the higher rate. The economic fact that tax rates have a significant effect on people's behavior is often completely ignored. These dynamic effects, however, represent the real world and should not be overlooked when policy decisions are made.

Therefore, even though it appears at first glance that increasing the income tax rate on middle and higher income families will raise revenue, in reality, such an increase will provide a disincentive to produce, invest, and spend. This in turn affects sales and production, which affects employment and ultimately, the amount of Federal revenues collected.

Mr. President, the American tax system was designated to raise revenues to finance necessary public programs. The principle of fairness should be an integral part of the system, along with the objective of maximizing revenue while encouraging economic growth. Attempts to use the tax system as a tool to further redistribute income by increasing the tax rate on the wealthy will not achieve his goal. Raising the taxes for high income taxpayers will not increase fairness since it will eventually lower the income of everyone.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. I yield 7 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Colorado [Mr. BROWN] is recognized for up to 7 minutes.

Mr. BROWN. I thank the Chair.

TAX CODE FAIRNESS

Mr. BROWN. I wish to thank the distinguished Senator from Idaho for gathering us together to address the question of tax fairness. I come to it as one who helped pay my way through college by filling out tax forms, one who has lived with the problems of taxes both as a member of the House Ways and Means Committee and as one who has practiced that area as a CPA and as an attorney. It is an area that I think is of great importance to the American people.

There is nothing more important than assuring the people who pay for the functions of the Federal Government that the money is raised in a fair manner.

We live in a tax system that has been dominated for 37 years by the Democratic Party. The Democratic Party has controlled the House Ways and Means Committee ever since the election of 1954. It is the longest period of one-party domination of any time in the history of this Nation.

The Tax Code which has come about because of that one-party domination I

believe is one that reflects great problems for the American people. It is an unfair code. It is a complex code. It is one that caters to special interests who hire lobbyists on the Hill and forgets about the working men and women of this Nation.

Now, those are serious charges, and I hope the leadership of this great institution will come to the floor and defend the tax policy that the Democratic Party has brought this Nation. But in raising that question, I want to be specific because when you challenge the system that stands before us as unfair and unrepresentative of the desires of the American people, you have a responsibility to make sure that the people who want to respond to that have something specific. Let me be specific.

The savings rate of this Nation is the lowest savings rate of any mayor industrialized country in the world. Let me repeat that. The savings rate for the United States of America is the lowest savings rate, net savings rate, of any major industrialized country in the world.

What it means is we are condemning Americans in the future to be borrowers, to have foreign ownership of their businesses, and to lose opportunity for jobs and creativity in this Nation. It is a formula for economic folly in the years ahead, and it is a function of the Democratic Tax Code

The reason we have such low savings is because of huge deficits and a Tax Code that penalizes savings instead of rewarding it. It is the most complex Tax Code ever presented a nation on the face of the Earth. It is not just so huge in its volumes. It is not just that it is so complex in its intricacies. But it is complex because it is an effort to cater to special interest groups. It is not an effort anymore to just raise revenue. It is an effort to manipulate and control the lives of individual Americans through the complexity of the Code.

Mr. President, I think it is bad policy. I think we ought to be concerned about a simplified Tax Code and we ought to be concerned about a Tax Code that rewards savings. How do you do it?

Capital gains; what is the problem with our capital gains law? If working men and women in this country invest their money in a home and that home is impacted by inflation so the price doubles, when they go to sell that house they are taxed even though the buying power, the purchasing power, of that house has not gone up. Working men and women in America are taxed because of inflation, not because of gains, and that is wrong.

I hope the leadership of this body will come to the floor and tell us why men and women in this Nation ought to be taxed when they do not have a gain, why we are taxing away the very capital base and the savings base of this Nation.

We have introduced bill after bill in Congress to index the basis of capital assets to provide a fair tax policy for the American people and they are not allowed to be brought to the floor. But we ought to index the base of capital assets if we want to be fair with the American people.

I think we ought to look at the rules for passive losses. To say that you should not allow deductions for phony losses is a reasonable measure. But when you have cash out-of-pocket losses for a business venture and you are not allowed to offset those against income, that is wrong and it is unfair. We ought to correct it. We ought to address that question of passive losses.

I think a Tax Code that says when you make money on the sale of capital assets you have to report it as income, but when you lose money, you can only deduct a portion of it is unfair. It is heads the Government wins, tails the taxpayer loses. If you make money, you have to report it all and pay taxes on it all. But if you lose money, you can only deduct $3,000 a year. It is not fair, and it is not right, and it ought to be addressed.

One of the most outrageous examples, though, of unfairness to the American people is the earnings penalty. It is an arrogant attitude on the part of the leadership of this Congress to say to the American people we are going to penalize you when you are senior citizens and you go to work. The earnings penalty says we are going to take away your Social Security payment that you worked for, that you paid into all your life, because you committed the outrageous sin of working in your senior years.

That is not what made America strong. America is strong and creative and productive because we reward people who work hard, not come up with an extra special penalty for them.

We are at a point where we toss those people into a higher tax bracket than any major country in the world if they dare work when they are a senior citizen. What should we do? We ought to come to the floor and repeal the earnings penalty. We ought to come to the floor and correct the passive loss penalty and allow people deductions when they have real losses. We ought to come to the floor and correct the provisions so that if you have a gain you get to pay taxes on it, but when you have a loss you get to deduct it on a capital asset. We ought to come to the floor and we ought to index the basis for capital gains.

Mr. President, the fact is what the American people want is a Tax Code that is simple and is fair, and they are willing to pay their taxes.

We cannot expect them to agree with all the spending that comes through this body, but they have a right at least to expect a fair Tax Code, one that is understandable and reasonable.

I hope this body will respond by bringing these issues to the floor and giving the Members of this body an opportunity to vote up or down on whether or not the unfairness and the complexity of this Tax Code should be continued.

I thank the distinguished Senator from Idaho, and I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. I thank the Senator for a very excellent statement. I think his point about taxing people on the inflationary gains of their own homes is right on target. This is one of the most immoral things that takes place in this country.

The least we can do with respect to capital gains would be to index it and take out the inflation of the assets. The people who have worked and saved and scrimped their entire lives, when they turn around to sell their homes, are taxed on inflation and not just on any real increase in value. It is totally unfair.

I think the Senator is quite correct that those who oppose fixing the taxation of inflationary gains should have to explain it to the American people.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes 45 seconds.

Mr. SYMMS. I yield the remaining time to the Senator from Texas [Mr. GRAMM].

ECONOMIC STATISTICS

Mr. GRAMM. Mr. President, this morning I want to talk about the use of economic statistics to measure what is happening in America.

And I would like to ask those who will read these remarks in the RECORD, those who are watching them over television or listening to them in their offices, and those who are here, to think of economic statistics as being equivalent to the reading on a thermometer that you stick in a sick person's mouth, and then based on that reading, you try to decide, Is he getting sicker, or is he getting better?

The second point I want to make relates to a quote by a famous economist named Alfred Marshall.

> The greatest errors arise from overlooking the most obvious truths.

I am going to argue today that in looking at the 1980's, in their effort to discredit the Reagan economic program, Democrats have not only achieved their purpose with a statistical sleight of hand—and I think you will see and agree with that when you listen to what I have to say—but more importantly, they have so confused themselves, that they have reached the remarkable conclusion that economic growth is not the fundamental path to opportunity and to fairness.

As a result, the National Democratic Party, today, stands—other than a few people in Cuba—as the only organized

political group in the world that still believes the answer is more government.

First of all, if you listen to the Democratic critics of the Reagan era, what they are basically saying is that the 1980's were made up of years that represented a benign neglect of the public, when the rich got richer and the poor got poorer. Let me read a few quotes, and I think those who have followed the debate will say these are representative:

For the last 10 years, the working men and women of America * * * have been getting hit below the belt by Reagan and Bush economic policies.

Senator TOM HARKIN, June 1991.

The 1980's were kind of a period when the wealthy basically ripped off the rest of society—and President Reagan essentially blessed the transfer.

House Budget Committee Chairman LEON PANETTA, March 1991.

During 1978-1987, real income fell for the poorest 40 percent of Americans and stagnated for the "middle income" 20 percent, while the upper 40 percent gained. * * * Much of the rise in poverty can be traced to the Reagan-Bush budget policies, which constituted an attack on the poor.

Repesentative WILLIAM GRAY, November 1988, who at the time was chairman of the House Budget Committee.

Mr. President, every one of those conclusions is based on a phenomenal, almost unbelievable political sleight-of-hand use of statistics, because every one of those conclusions is produced only by counting years when Jimmy Carter was President, every day, 365 days of each year, as part of the Reagan era.

Let me give you some examples. Let me look at the Bill Gray quote. Looking at the actual data used by Congressman GRAY in his criticism of Reagan-Bush policies, quoted above, you will find that each and every negative statistic he complained about was generated before the Reagan policies went into effect.

From 1978 to 1980, the bottom 40 percent of income earners in the United States saw their average income fall by 6.5 percent. But from 1981 to 1987, it rose by 7.6 percent. The middle 20 percent and upper 40 percent of income earners saw their average income fall by 5.7 percent and 5.3 percent respectively from 1978 to 1980, and rise 10.1 percent and 17 percent respectively from 1981 to 1987.

When you drop 1978, 1979, and 1980 from the Gray data, every single conclusion he reaches is false. Everything he complains about happened not when Ronald Reagan was President, but when Jimmy Carter was President. And exactly the same thing is true with the other statements that I talked about.

What is surprising is not that people in leadership positions in the Democratic Party would try to confuse people about what happened when Ronald Reagan was President. What is surprising is that the media not only report this without any reference to the underlying data, but news organizations also use this data over and over and over again to criticize the Reagan era.

It is easy to forget, but important to remember, that Jimmy Carter was President every day in 1980. Ronald Reagan did not become President of the United States in 1980. Much as the Democrats would like us to forget that fact, it is true. Although Carter left the White House in January 1981, he signed every appropriation bill for fiscal year 1981, except a very small supplemental. It is important to remember that Reagan's 3-year tax cut did not go into effect until January 1982, and it went into effect in three stages.

Every economist would say that it takes at least 1 year for the impact of a change in tax or budget policy to have its full impact on the economy. The Congressional Budget Office points this out:

. . . after a reduction in tax rates, there is an increase in GNP * * * the peak of which occurs after 4 quarters in all of the models (used by CBO).

Economists Robert Ekelund and Robert Tolison have observed that estimates vary, but it is thought that tax and spending changes may take from 1 to 2 years to have their full impact on income and employment.

While most economists would measure any kind of economic reaction to the Reagan program beginning in January of 1983, there is no economist that would argue that the state of the economy in 1981 was a result of Reagan policies, when he did not sign a single, general appropriations bill, for 1981, and when his tax cut did not go into effect until January 1982.

When you remember that Reagan took office on January 20, 1981, and his tax cuts went into effect in January 1982, when you look at that, the whole picture of this period of the 1980's changes. Let me just show you a couple of charts.

First of all, I have here a chart plotting out average family income. Remembering the year lag, so that Carter's policies first had effect in 1978 and the last year that his policies dominated the country was 1981, look at what happened to average family income. It started at about $33,500. It fell down to $30,500 by 1981. Ronald Reagan's programs went into effect on January 1, 1982, and look what happened to average family income. It rose like a rocket. What the Democrats do in each of their studies, from the Green Book put out by the Ways and Means Committee to studies done by the Joint Economic Committee, is to always measure from 1979 to 1989 and call that the Reagan era.

By their thermometer measurement, the economy got only slightly better from 1979 to 1989 but if you look at what actually happened to the economy, the economy got much worse under Carter. But then it got much better under Reagan. Yet the Democrats' conclusion is Reagan's program failed. And how did they reach that conclusion? They reached it by counting the Carter years in all of these studies such as the Green Book and others.

The PRESIDING OFFICER. The time has expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator be permitted to continue for 2 additional minutes.

Mr. GRAMM. Thank you.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 2 minutes.

Mr. GRAMM. Mr. President, I conclude on this point so as not to use up the time of the Senate. I want to ask my colleagues, when they read these studies criticizing the Reagan eighties, to carefully examine them and I assert they will find that in each and every case 1980 is counted as the year when Ronald Reagan began as President, every single case. There is not one study using the Reagan era on income or poverty or growth that does not count 1980 as the Reagan era, even though Jimmy Carter was President every day. Most of them start in 1979 and, as a result, all of the statistics are biased because 1980 was the worst year economically in the postwar period.

What I am basically trying to say, Mr. President, is this: When you look at what happened in America and you separate the policies of the Democrats during 1978 to 1981 from the Reagan policies during 1982 to 1989, here is what happened: The number of families with real incomes over $50,000 declined by 13.8 percent when Jimmy Carter was President. The number of families making between $50,000 and $15,000 rose by 1 percent; the number of families making under $15,000 rose by 17.5 percent. Under the Reagan policies the number earning under $15,000 fell by 14.3 percent; under $50.000 to $15,000 fell by 8.5 percent; the number of families earning over $50,000 rose by 36.8 percent.

I think that, if people will look at the data, they will conclude that American policies that went into effect on January 1, 1982, have worked.

I thank the majority leader.

TAX FAIRNESS AND ACCOUNTABILITY

Mr. McCAIN. Mr. President, let me begin with a quote from a great American, Abraham Lincoln:

You cannot establish sound security by spending more than you earn.

Last year's budget summiteers would have better served the American public if they had heeded, or at least remembered, the wise words of Abraham Lincoln.

Instead, it was business as usual. Congress enacted one of the largest tax

increases in history, raising $166 billion over 5 years.

Americans now spend 128 out of 365 days working for the Government, paying taxes. This is 3 days longer than before last year's budget deal.

Furthermore, the budget deal did not control or limit spending or reduce the deficit. In fact, for every $1 of new taxes, there was $1.83 in new spending.

Thus, as a result of last year's budget deal taxes went up, spending went up, and the deficit is projected to reach record levels, perhaps over $300 billion.

But, there is more to last year's budget deal than increased taxes, spending, and debt.

There is a provision which requires a 60-vote supermajority for tax cuts, but only requires a simple majority of 50 votes plus 1 for tax increases. This only ensures that there will be more and more tax increases to support more spending and ever increasing deficits and debt.

It has become clear that tax increases are enacted to support more spending and larger deficits.

Unless we control taxation, we will never control and limit spending.

Recognizing this, a supermajority requirement for tax increases is the all important first step in true budget reform.

That is why I have introduced the Tax Fairness and Accountability Act of 1991, S. 809. It is that much needed first step. My legislation is simple and honest. It would reverse the provision in last year's budget deal that requires 60 votes for a tax cut and only 51 vote simple majority for tax increases.

My legislation would require a 60-vote supermajority for tax increases and only a 51-vote simple majority for tax cuts. This would ensure that tax increases are debated openly, and that they will reflect a broad national consensus based on need. By requiring a broad national consensus represented by a supermajority, we can avoid senseless tax increases that do not reduce the deficit.

My legislation is the all-important first step toward true budget reform. However, it is the only first step toward establishing a sound and secure future by not spending more than we earn. Passage of S. 809 would refocus deficit reduction where it belongs, on spending control and reduction.

There are several excellent budget reform proposals that I support that would compliment my supermajority legislation. The Legislative Line-Item Veto Act of 1991, S. 196, introduced by Senator COATS would give the President an effective weapon to eliminate wasteful spending. It alone would not balance the budget.

Senator BURN's 4-percent solution, S. 847, would tackle the problem of deficit spending directly. It would limit annual discretionary spending increases to 4 percent. It would also eliminate current services budgeting which creates the illusion of spending cuts when spending really continues to grow.

These proposals together would go a long way toward balancing the budget and reducing the debt without incessant and misguided tax increases.

Mr. President, we are at an historic fiscal crossroad. We must take the first step toward a sound and secure fiscal future by enacting the Tax Fairness and Accountability Act of 1991.

TAX FAIRNESS

Mr. MCCONNELL. Mr. President, I rise today to discuss an issue that concerns all Americans, the fairness of our Tax Code. The decade of the 1980's brought the United States an unprecedented period of sustained economic growth. Also, during this period millions of new jobs were created. For example, since 1982, 137,000 new jobs have been created in my home State of Kentucky. Some individuals, however, ignore the economic gains of the 1980's and point to our huge budget deficits. They complain the economic policies of the Reagan-Bush era, namely the 1981 tax cuts, created these deficits and that in the decade of the eighties the rich got richer and the poor got poorer.

These critics make it sound like the only ones who benefited from the 1981 tax cuts were the rich and that these tax cuts enable the rich to avoid paying their fair share. The 1981 Economic Recovery Tax Act reduced individual income tax rates across-the-board by approximately 23 percent. Tax rates were not just reduced for the rich but for everyone. The 1986 Tax Reform Act increased the standard deduction and personal exemption, removing 4.3 million low-income taxpayers from the tax rolls. Without the Federal income tax cuts of the 1980's a family of four would be paying $1,500 more in taxes every year. The lowest 40 percent of income earners saw a tax rate decline of 31 percent between 1980 and 1990, while the highest 40 percent saw a decline of 9 percent.

If the Carter administration's tax policies were in effect today, a family earning $10,000 a year would pay 134 percent more in income taxes. Including the increases in Social Security taxes, which were mandated in 1977, this family would pay 42 percent more in total taxes if the 1980 tax law was in effect.

The rich are paying more in taxes than ever before. In 1981, the top 1 percent of taxpayers paid 17.6 percent of all income taxes. In 1988, the same top 1 percent paid 27.5 percent of all income taxes. Over the same period, the average tax payment of the top 1 percent of taxpayers has increased from $68,752 to $104,008 in constant 1988 dollars. The wealthiest 50 percent of taxpayers pay 95 percent of all income taxes and 83 percent of Social Security [FICA] taxes.

We have also heard many complaints about the vanishing middle class. Individuals who decry the reduction of the middle class imply that the middle class has gotten poorer. In actuality, the middle class has grown smaller, but it is because it got richer. In 1977, 60 percent of American families made between $15,000 and $50,000 a year. By 1989, only 52.9 percent of families had an income in this range. During this same period, families making over $50,000 increased from 21.1 percent to 29 percent while those earning under $15,000 declined from 19.1 percent to 18 percent.

Proponents of increased tax rates for the rich maintain that such rates will produce more income for the Federal Government. They forget that low income tax rates encourage people to work harder and produce more income because there is less incentive to hide income in unproductive tax shelters. Raising taxes on the rich will inevitably reduce the share of taxes paid by the rich. History is replete with examples of the rich changing their behavior and taxable income in response to changes in the tax rates. Andrew Mellon, former Secretary of the Treasury, once argued, "Is it fair to tax the rich at a very high rate and collect a paltry amount or tax them at a lower rate but get more money?"

Currently, the U.S. Treasury collects more revenue than ever before. Income tax revenues are about 100 percent higher than in 1980, even with the 1981 tax cuts, and the 1986 Tax Reform Act. Between 1980 and 1990, Federal revenue has risen by $527 billion; $527 billion is a huge amount of money. Congressional spending, however, has increased by an even larger amount. Perhaps we should look in our own backyard when talking about the reasons for the deficit instead of complaining that tax cuts which boosted the economy and put money into the hands of working Americans were the culprit.

The reconciliation legislation we passed last year increased taxes for all but the poorest families. Proponents of the package maintained that the tax increases were aimed at the rich not the poor and middle classes. These claims were made despite the fact that 60 percent of the tax increases in the package were regressive excise taxes. We enacted 10 percent excise taxes on luxury items such as cars, boats, airplanes, jewelry, and furs priced over a certain amount. This was an attempt to tax the wealthy who it was considered were the primary purchasers of such luxury items.

Proponents stated that a majority of the rich would not change their buying habits because of an extra 10-percent tax. They were wrong. The rich have changed their buying habits because of this luxury excise tax, they decided to purchase fewer of these items. Fewer purchases means that fewer items need

to be produced. Lower production means less employment for the working men and women of America. The rich do not produce these goods, working men and women do. When fewer of these so-called luxury items are produced, it is not the rich who face the economic hardship, it is the working men and women.

Trade associations who represent the industries that are now subject to the luxury excise taxes have stated that the taxes have caused a substantial decline in sales and production of these goods. The auto industry cites a permanent drop in demand of 20 percent. The boat manufacturers stated the taxes contributed to a net job loss of 19,000 blue-collar manufacturing jobs and bankruptcy for countless small family-owned businesses. The same trend can be seen in the jewelry, fur, and aircraft industries. Instead of raising revenue for the Federal Government, the luxury excise tax may cost the Government money. Jobs and production will be lost while unemployment and economic hardship for working Americans will increase.

Last year, we passed the second largest tax increase in the Nation's history. The reason was supposed to be to reduce the deficit and at the same time make the tax system more fair by targeting the new taxes to the rich. All but the poorest Americans, however, will suffer because of these new taxes. What would be more fair to all Americans would be for the Congress to change its spending habits so that tax increases would not be necessary. Domestic spending will be increased by $1.83 for every dollar of new taxes contained in last year's agreement; that is absurd. Congress must learn to control its spending so that all Americans can face a fairer tax system, one which lets them keep more of the money that they earn.

PRIVATE PROPERTY RIGHTS ACT

Mr. SYMMS. Mr. President, I rise today to discuss the rising tide of support for S. 50, the Private Property Rights Act of 1991. This bill has passed the Senate as an amendment to the Surface Transportation Act. However, pending action on this bill in the U.S. House of Representatives, I continue to see widespread support for my legislation.

This bill will extend the protection afforded by the fifth amendment of the Constitution to property owners whose rights are threatened by Federal rules and regulations by requiring that the Department of Justice determine whether or not the new rules take private property.

More than 15 national organizations have thrown their support behind the Private Property Rights Act and more are adding their endorsement every day. Supporters include the American Farm Bureau Federation, American Forest Council, American Sheep Council, U.S. Chamber of Commerce, National Milk Producers Association, National Water Resources Association, National Forest Products Association, National Grange, Citizens for a Sound Economy, Competitive Enterprise Institute, and Blue Ribbon Coalition.

The bill is also endorsed by the White House and has the support of the President's Council on Competitiveness, which is chaired by Vice President DAN QUAYLE.

Another endorsement comes from Mr. Douglas E. Ericson of Idaho Falls, ID.

Mr. President, Mr. Ericson asked in his letter that I use his response to show other Senators that he supports this bill. At this time, I ask unanimous consent that the entire text of his letter appear in the CONGRESSIONAL RECORD.

IDAHO FALLS, ID,
June 23, 1991.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Yes, I agree with you Senator Symms, and as a private property owner, I agree that private property rights must be protected, as guaranteed by the U.S. Constitution. I support the Private Property Act, and ask that you use my response to show other Senators that I support the bill.

Your letter on this subject specifically mentions the EPA as an agency that threatens property rights. Very appropriate.

For the past few years, at close range, I have seen the EPA in action. I have gained some insight into the attitude of the EPA administrators. My conclusions are not cheerful.

Zealots within EPA are able, and indeed anxious, to convert America to their vision to Utopia. There is little regard for private property rights in their vision.

Through the use of broad definitions of wetlands, and by arbitrary use of punitive measures relating to effluents, they have indirectly stated their agenda. That agenda is not amenable to the protection of private property rights.

Additionally, by placing most chemicals on sliding scales of toxicity and by clamping fiscally damaging regulations onto waste management, they are intruding into everyone's private life.

I believe your Private Property Act is a necessary statement to make at this time and I believe it can be an important first step in causing the EPA, and other offending agencies, to become more accountable to individual citizens.

Sincerely Yours,

DOUGLAS E. ERICSON.

JUDGE THOMAS IS NOT A QUOTA NOMINEE

Mr. HATCH. Mr. President, I would like to speak to the issue of the nomination of Judge Clarence Thomas to the Supreme Court of the United States.

Mr. President, some liberals have objected to his nomination and some have subjected President Bush and Judge Clarence Thomas to a very ironic criticism. They claim Judge Thomas is a quota appointment.

I find the claim patronizing and cynical. It is usually made by those who do not know the excellence of Judge Thomas.

Some of these same critics had indicated their wish that President Bush nominate a black person to succeed Justice Marshall. Evidently, they wanted it both ways: If the President had not nominated a black person, they would have called him insensitive. Now that he has done so, they accuse him of making a quota appointment.

This unfortunate charge is, of course, a byproduct of the racial preference and reverse discrimination policies favored over the years by many liberals who now criticize President Bush's appointment. Having fostered a racial and gender numbers game over the last 20 years, they have created an environment where any time a minority person or a woman gets a job or promotion that they deserve on the merits, especially in a nontraditional position, their qualifications are challenged.

In Judge Thomas' case, these liberals apparently cannot believe that an intelligent, hardworking, highly qualified black American does not necessarily subscribe to all of their tired, old policies. His beliefs may not fit their apparent stereotype of what a black leader should believe. Those liberals seem to be saying, he cannot be the best person for the job if he does not think like us. And, heaven forbid, he does not even share our love for numerical racial and gender preferences. He actually believes equal means equal, and that the law should apply without racial preference for or against anyone. Clearly, they say, such a black American cannot be the best available person.

Mr. President, it is often said that the Senate is the last plantation in America. I hope the Senate does not act like one when it considers Judge Thomas' nomination.

JUDGE THOMAS IS WELL QUALIFIED

Mr. President, let us dispose of this canard that Judge Thomas' nomination is in any way questionable because he has been a judge for less than 2 years. Out of the 105 Justices serving on the Supreme Court in our Nation's history, 41 had no prior State or Federal judicial experience—41, Mr. President. Another 10 Justices had 2 years or less experience on State or Federal benches. Many of the most distinguished Justices of the Supreme Court had no prior State or Federal judicial experience whatsoever.

James Wilson, of Pennsylvania, played a role second only to Madison at the Constitutional Convention, and he had no prior judicial experience.

John Marshall, of Virginia, who is widely regarded as the single greatest Justice to have ever served on the

court, and he had no prior judicial experience.

Joseph Story, of Massachusetts, another all-time great Justice who stood shoulder to shoulder with John Marshall for 25 years in furthering a strong union, and for another 10 years after Marshall's death; who is well known for his 1833 commentaries on the Constitution of the United States, for his famed Harvard Law School lectures, and for his work on copyrights and patents; and he had no prior judicial experience.

John Archibald Campbell, of Alabama, who was so well regarded that he is probably the only nominee for whom the entire membership of the Supreme Court wrote a letter to the President, Franklin Pierce, urging his nomination, and he had no prior judicial experience.

Louis Brandeis, of Massachusetts, universally regarded as one of the all-time great Justices, served with distinction for 23 years, and he had no prior judicial experience.

George Sutherland, of my own State of Utah, a leader in the Utah bar, and the intellectual-philosophical leader of the anti-New Deal wing of the Supreme Court, has been rated by many court observers as one of the top Justices to have served, and he had no prior judicial experience.

Felix Frankfurter, of Massachusetts, served with great distinction for 23 years, and he had no prior judicial experience.

William O. Douglas, of Connecticut, a towering figure on the Court for over three decades, indeed he joined the Court from the chairmanship of a Federal agency, the Securities and Exchange Commission, and he had no prior judicial experience.

Robert H. Jackson, of New York, another highly regarded Justice, who authored the opinion in *West Virginia State Board of Education* v. *Barnette* (319 U.S. 624 (1943)) striking down a State flag salute statute and who served as the American Chief Prosecutor at the Nuremberg Nazi war crimes trials, and whose dissent in Korematsu versus United States, a case upholding the exclusion of Americans of Japanese ancestry from the west coast during World War II, rings out to this very day. He warned that "once a judicial opinion * * * rationalizes the Constitution to show that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need. Every repetition imbeds that principle more deeply in our law and thinking and expands it to new purposes." His prophecy has come true, as reverse discrimination, to the extent the Court has so far sanctioned it, is justified by its proponents on the basis of allegedly urgent needs. Justice Jackson had no prior judicial experience—indeed, he never graduated from law school.

Earl Warren, of California, led the Court in overturning numerous precedents, including Plessy versus Ferguson, widened the rights of criminal defendants, reshaped State legislatures under the one-man, one-vote doctrine, and he had no prior judicial experience.

Justices Byron White, of Colorado, and Arthur Goldberg, of Illinois, appointed by President Kennedy; Justice Abe Fortas, of Tennessee, appointed by President Johnson; and Justices Lewis Powell, of Virginia, and William Rehnquist, of Arizona, appointed by President Nixon—combined, they had zero judicial experience.

Justice Hugo Black, of Alabama, had 1½ years of State judicial experience.

John Harlan, the elder, of Kentucky, nominated at the age of 44, is another Justice generally regarded as one of the all-time greats, and who penned one of the most famous dissents in the Court's history, in Plessy versus Ferguson, when he correctly and courageously wrote, "Our Constitution is colorblind, and neither knows nor tolerates classes among citizens," and he had 1 year of prior judicial experience on a State court.

His grandson, John Marshall the younger, was a brilliant exponent of his legal point of view, often in dissent in the Warren years, and he had only 1 year or prior judicial experience.

I could go on, but my point is this: I would not want to see Judge Thomas subjected to some kind of double-standard with regard to judicial experience. He has had so much or more judicial experience as nearly half of the Justices confirmed by the Senate. The use of double standards to deny black people jobs when the real reason is something else is an old tactic. Here, the reason his critics question his nomination is not because of a lack of judicial experience, but because they think he will not vote the way they want him to vote. Some critics are troubled that he is a forthright opponent of reverse discrimination, whatever the euphemism used to mask it. He believes our civil rights laws apply equally to all Americans, without preference for any American.

Moreover, Judge Thomas has a wealth of impressive qualifications. He is a graduate of the College of the Holy Cross and the Yale Law School. He served for 2½ years as assistant attorney general for Missouri, under our distinguished colleague, Senator JOHN DANFORTH. I cannot imagine a finer introduction to the practice of law and a better training ground for the Supreme Court than this office. He was an attorney at Monsanto Co. in St. Louis, MO, for over 2½ years. For nearly 2 years thereafter, he rejoined Senator DANFORTH as a legislative assistant. In this stint with Senator DANFORTH, he worked on matters involving energy, environment, public works, and the Department of the Interior. In 1981, he became assistant secretary of education for civil rights. A year later, he began an 8-year tenure as chairman of the Equal Employment Opportunity Commission. For over a year, he has sat on the prestigious Court of Appeals for the District of Columbia. He has been a member of the board of trustees of the College of the Holy Cross, his alma mater.

This wide range of public service, at the State and Federal levels, and in the private sector, will serve him well on the High Court. Judge Thomas has been in the public arena. He has faced controversial issues. He has stood up to pressures from both the right and the left while in the Reagan administration. He is his own man. He is well qualified and experienced.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the majority leader.

Mr. MITCHELL. 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. 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.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for 5 minutes so as to permit the Senator from Nebraska to address the Senate.

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

The Senator from Nebraska is recognized for those 5 minutes.

Mr. EXON. I thank the Chair and the majority leader.

Mr. President, I ask unanimous consent that the remarks that I am about to make appear in the RECORD immediately following the remarks by my colleague from Nebraska, Senator KERREY, on the talk he gave regarding health care earlier this morning.

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

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1446 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. I thank the Chair, and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2506

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 2506, the legislative branch appropriations bill for fiscal year 1992, notwithstanding the provisions of rule XXII.

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

UNANIMOUS-CONSENT AGREEMENT—S. 1241

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 1241, the crime bill, that the time today until 12 noon be for debate only and be charged against the time remaining and that at 12 noon the majority leader or his designee be recognized.

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

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill 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.

CONTINUED SUCCESS OF THE INTERNATIONAL FUND FOR IRELAND

Mr. KENNEDY. Mr. President, the International Fund for Ireland continues to be successful in creating jobs in disadvantaged areas of Northern Ireland as well as fostering cooperation between Protestant and Catholic communities. And the U.S. contributions to the fund are playing an important role in that success.

I recently received a letter from the Department of State which describes some of the recent successes of the fund and the significance of the U.S. contributions. I believe this letter will be of interest to all of my colleagues who are concerned about this issue, and I ask unanimous consent that it may be printed in the RECORD.

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

DEPARTMENT OF STATE,
Washington, DC, July 2, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: Knowing of your interest in the International Fund for Ireland, I thought you might be interested in some recent activities of the Fund. These comments are largely based on reports from officers of our Consulate General in Belfast, who have devoted a great deal of attention to the Fund.

They report that the Fund has been getting good press in Northern Ireland lately, with a number of project openings and announcements enhancing its image. In the past months several new projects in all six counties of Northern Ireland and in everything from rural development to urban regeneration have been announced. Consulate officers participated in inaugural ceremonies for various projects and visited others. They received repeated strong public thanks from officials and participants for the U.S. contribution.

URBAN DEVELOPMENT

The Fund has recently announced that 41 new projects in Northern Ireland will be offered grants totaling 1.7 million pounds sterling under its Urban Development Plan. These grants are expected to attract additional private investment of 5.5 million pounds, and will create 450 new permanent jobs, as well as temporary construction jobs. Competition for the grants was stiff, with over 400 applications received. The program is designed to aid economic and social regeneration of urban areas with a focus on stimulating private investment. Many of the approved projects, which are spread evenly throughout the Province, will bring vacant buildings into productive use, renewing the physical fabric of run-down areas, and bolstering civic pride.

RURAL DEVELOPMENT

On April 4, the IFI announced that it would be spending 572,000 pounds in addition to funds already spent on a rural action project which will encourage diversification by small or part-time farmers in the most deprived areas of South Armagh and West Fermanagh. Under the project, 60 farmers are engaging in a diverse range of enterprises with commercial potential, such as strawberry and mushroom culture. The project will also fund R&D work on crops and markets.

The Consul General has visited the mushroom project, which struck him as an excellent method of supplementing incomes of marginal farmers. The project appears innovative and has a connection with a producer of mushroom spore in the Pittsburg area. Managers of similar projects tell us that by introducing new crops and new technology to small farmers, they hope to keep more young people on the farms and stop the waves of emigration from Rural areas.

CARRICKMORE

The International Fund, in partnership with the Department of Environment (DOE), launched a 1.9 million pound program for the County Tyrone town of Carrickmore, April 10th. The money will be spent over the next two years on the economic regeneration of the town center. The package will include a multi-purpose Community Resource Center with 18,000 square feet of workspace. Speakers at the opening ceremony for the project thanked the U.S. for its contribution.

Carrickmore is typical of the Province's smaller disadvantaged towns. It has very high unemployment levels and is a Provo stronghold, as the graffiti on its walls testify. The commercial premises are run-down and, as a divided community, it has had rather more than its share of inter-communal violence. Indeed, the Carrickmore ceremony had been scheduled for an earlier date but was postponed because of the sectarian murder of a man in a village nearby.

Consulate officers have had a good bit of contact with Carrickmore, although it won't appear on anyone's tourism map for some time, and the Consul General participated in the opening ceremony. On an earlier visit, he had been struck by the high quality of the board of the Development Group, most of whom are local businessmen. The Board also drew much praise at the ceremony. Given the community rifts brought on by the "troubles," just bringing a cross-community group together is a difficult feat. Several residents told the Consul General that the IFI-backed project has helped engender a new spirit of optimism in Carrickmore. We share with Fund Chairman John B. McGuckian the sense that the Carrickmores are just where the Fund should be operating.

KEADY AND DARKLEY

The Consul General participated with the Northern Ireland Minister for the Enviroment, Richard Needham, Mr. McGuckian, and Seamus Mallon, the Member of Parliament for the area, in the opening ceremonies for two IFI Projects in the particularly disadvantaged towns of Keady and Darkley, South Armagh. This major regeneration project, costing 1.5 million pounds, is the first project of IFI's Community Regeneration and Improvement Special Program (CRISP) to be announced for the troubled South Armagh area. The money will go toward construction of a business center and the refurbishment of a derelict mill in Keady Town Center. The local District Council is adding 30,000 pounds to open a Heritage Center based on the town's historic linen industry. All of the speakers went out of their way to stress the importance of the U.S. contribution to the Fund, and to offer their sincere thanks for the U.S. interest in Northern Ireland affairs.

DUNGANNON

The Cousul General and Vice Counsul visited a newly opened enterprise center in Dungannon on May 13. Local politicians joined them for a tour of the premises, which contains 34 small businesses. The project, which cost one million pounds, was co-funded by the IFI, the Dungannon District Council, and the Local Enterprise Development Unit (LEDU). Local Councillors made frequent reference to the importance of the center for the town, which has been hard hit by violence, and all thanked the U.S. for its contribution.

WEST AND NORTH BELFAST

The Vice Consul also paid repeat visits to two West and North Belfast enterprise centers to check on progress. The Ashton Development Center, located in the troubled New Lodge area, will open its new IFI-Funded Enterprise and Retail Center in July. This center is notable for the level of community support it received. Most of the 5,000 residents of the area, which suffers from 70 to 80 percent male head-of-household unemployment, chipped in 10 pounds for the construction. Managers tell us that since the construction there have been no incidents of vandalism or paramilitary graffiti although the center is only twenty yards from the spot where teenager Seamus Duffy was killed by a plastic bullet during a disturbance two years ago. The manager added that this year there was decidedly less violence, which he attributed in part to the center's existence. Again, the U.S. dimension was noted, and the management has requested that an American official formally open the center in August.

Farset Enterprise Center, located directly on the "Peace Line," which divides the Protestent Shankill from the Catholic Falls areas, was officially opened by Ambassador Catto in June last year. Since then, the center has increased its occupancy and maintained its 50-50 split between entrepreneurs from each community. Managers have encouraged cross-community groups to visit the center and note that they have experienced almost no crime or vandalism since the center has been in operation.

Our contacts with International Fund activities have led us to conclude that the Fund has succeeded in changing its image from the early days when it was accused of making the rich richer. By showing that it will go where some fear to tread, and by making a commitment to troubled areas with high unemployment, the Fund has attracted praise from all corners of Northern Ireland. So popular is the Fund that even some stronghold Unionists, once adamantly against the IFI for its links to the Anglo-Irish Agreement, have been agressively pursuing grants for projects in their areas.

I hope that these observations and conclusions have proved useful to you. If you have further questions, we will do our best to reply.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

ARTHUR OBERMAYER ON SOVIET ECONOMIC REFORM

Mr. KENNEDY. Mr. President, the debate over whether and how to assist the process of reform in the Soviet Union has generated a variety of proposals on how to achieve this goal. While much of the discussion centers on whether the West should provide massive amounts of financial assistance to the nation, several thoughtful individuals have advocated important and timely proposals that could be implemented simply and inexpensively.

One such idea has been put forward by Arthur Obermayer, president of the Soviet Countertrade Group of Newton, MA. Mr. Obermayer rightly points out that the debate over support for economic reform in the Soviet Union must include consideration of the need to educate Soviet citizens in basic elements of life under a market economy.

As Mr. Obermayer writes in a recent article in the Christian Science Monitor, the Soviet people "must be part of the economic reform process and must be convinced it can work. They need to understand the power of consumers, the expectations of employers, and the transiency of dislocations."

Mr. Obermayer suggests several educational activities that the United States could support at relatively little cost to United States taxpayers, but at great gain to the people of the Soviet Union. I believe his article adds an important element to the current debate over aid to the Soviet Union and I urge my colleagues to consider the proposals he suggests.

I ask unanimous consent that Mr. Obermayer's article may be printed in the RECORD.

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

[From the Christian Science Monitor, July 8, 1991]

OFF WE GO INTO THE WILD FREE MARKET

(By Arthur Obermayer)

We do not realize how little the Soviet people know about a free-enterprise system. Westerners, from early childhood, experience freemarket concepts through TV advertising, games like "Monopoly," and selling lemonade to neighbors. Even the brightest and best educated Russians have not had this kind of exposure and, as a result, do not automatically grasp concepts that are obvious to us. A few examples:

I know a computer magazine publisher who decided to publish a Russian edition of his magazine. The galley proofs of the first edition indicated that it was a few pages too long. He asked his Russian editor to bring them down to the required size. The Russian editor sent back the galleys with all of the advertising removed. He commented that the advertising provided very little new content of interest to the readers, and therefore it should be eliminated.

My niece showed an American newspaper to some Soviets in Moscow. After reading it, they asked, "What is a sale?" She responded that it occurs when a business sells its products for a lower price in order to attract customers. The Russians then asked, "Why would anyone want to sell a product for less?"

Last year, I met with leading bankers in one of the republics. The subject of credit cards came up, and I showed them mine. They had never seen any before, and were fascinated to learn how they are used. Bank checks are also a new concept. Consumer purchases in the Soviet Union are on a cash basis.

In Moscow last year, I met with some young entrepreneurs who were looking for investors to back an exciting new international magazine devoted to culture, aesthetics, philosophy, etc. The magazine had already generated a lot of enthusiasm among eminent people in the arts and sciences. I asked what they anticipated would be the subscription price. Their response was, "Two thousands dollars per year for four issues." I said, "No one would pay that amount." First they responded, "Don't libraries buy *all* magazines?" Next, they said they thought this was a fair price when compared with Western business and market reports that sell for just as much money, have no aesthetic value, are on poor quality paper, have no photographs, and contain, many fewer pages.

While our leaders urge President Gorbachev to institute economic reform, we are forgetting that the paritiepation and cooperation of the Soviet people are essential for success. They are envious of the higher standard of living in the West. But they are fearful of the unknown, are unaware of how it will affect their families, and are apprehensive when they hear about unemployment, homelessness, and higher prices that reforms may bring.

A top-down approach to reform imposed by their leaders can only bring resistance, frustration, disillusionment, and ultimate failure. The poeple must be part of the economic reform process and must be convinced it can work. They need to understand about the power of consumers, the expectations of employers, and the transiency of economic dislocations. Educating for a free enterprise system is a much sounder investment than direct financial aid, because it reaches beyond divisive Soviet leaders and bureaucrats and fundamentally influences peoples' attitudes. It helps them learn to help themselves.

Compared with full-scale financial aid, the expense of educating the Soviet people will be small. However, it will take many years to bring the level of understanding of their average citizen to that of a typical American.

Here are some educational activities we could support:

Television program aimed at the average Soviet citizen. This is the most effective and the principal medium for mass communications in the Soviet Union. TV stations throughout the USSR have already expressed interest in such programming.

Academic courses designed for all levels in schools and universities. Developing such courses requires outside help, as very few Soviet economists have a basic understanding of how a free enterprise system works.

Videotape for use in schools and workplaces. Bringing Soviet managers, professionals and factory workers for on-the-job training in American business environments could also produce rapid results, so long as the language barrier can be overcome. In the other direction, some American entrepreneurs, educators, and professionals have already started workshops and seminars in the USSR.

These prgrams could be begun with relatively little investment. The needed tools and skills are readily available in the United States. Many Soviet institutions are eager to enter into such ventures, but the combined efforts of a great many people are required. A commitment by major foundations and our government would accelerate the process. We have a rare opportunity to help the USSR and the world move in a direction that will benefit all of us.

GE/TUNGSRAM—A MODEL BUSINESS PARTNERSHIP

Mr. SASSER. Mr. President, I rise to submit for the RECORD the remarks of Frank P. Doyle, senior vice president at General Electric Co., before the National Foreign Trade Council.

As Eastern Europe begins its process of democratization the role that American companies can play in liberalizing the economies of Eastern Europe must not be underestimated. Active participation by American business is crucial to the transformation of Eastern European economies, and will in fact bolster our own economy as well.

One American company is charging ahead. In November of 1989, General Electric formed a partnership with Tungsram, a Hungarian lighting manufacturer. In this venture, GE found a tremendous business partnership.

Tungsram is globally competitive and technologically sophisticated, despite the past strains of a top-heavy bureaucracy and rudimentary management skills. Thus, GE's business strategy was clear and farsighted. Tungsram would gain a major European manufacturing base as well as

major distribution channels for GE lighting prior to the formation of EC 92. Ultimately, Tungsram would be pivotal in bolstering global leadership for GE lighting, thereby enhancing U.S. leadership in the field.

Moreover, General Electric is committed to making a broader contribution to the growth of the Hungarian economy. It is funding a variety of local job training programs to help Hungary through this period of wrenching economic change. This investment in the Hungarian people should accelerate the pace of constructive economic change both for Tungsram and Hungary as a whole.

General Electric's blueprint for constructive economic participation in Eastern European exemplifies the importance of American assistance for those nations making a transition to a market economy. The General Electric approach to promoting capitalism in Hungary might well prove fruitful for the other emerging economies of Eastern Europe.

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

[New York City, NY, June 18, 1991]

CONFERENCE KEYNOTE ADDRESS: OPPORTUNITIES FOR AMERICAN BUSINESS IN HUNGARY

(Remarks of Frank P. Doyle)

Thanks for that kind introduction, Frank. I didn't plan to make any speeches this month, since we're right in the middle of the negotiations we conduct every three years with the unions representing 67,000 GE employees. But this invitation was irresistible . . . both because of NFTC's standing in the trade field and because Frank Kittredge is an old friend and colleague.

This conference attracted me for another reason. That was the chance to emphasize, from my vantage point with GE, the important and urgent role American companies and investors can and should play in Hungary and the other liberalizing economies of Central and Eastern Europe. That's our view after eighteen months in partnership with Tungsram, certainly one of the most exciting and significant international ventures for GE in years.

We at GE like to emphasize speed and agility. But the fact that we announced our agreement to buy a majority interest in Tungsram just one week after the Berlin Wall fell in November, 1989 doesn't exactly give the right impression. Not only did GE and Tungsram maintain links over most of the twentieth century, but we expressed interest in a partnership over several years before we conducted serious negotiations over several months.

Our partnership with Tungsram is much less an historic leap of political faith and timing than a pragmatic business decision that made competitive sense.

TUNGSRAM: WHAT WE FOUND

What we found in Tungsram was, in some ways, a once-in-a-generation choice of a business partner.

We found a century-old globally-competitive enterprise . . . with 12 manufacturing plants and about 18,000 people . . . and a full product line in automotive, consumer and industrial lighting.

We found what is probably the lowest-cost producer of diverse lighting sources in the world, with manufacturing cost advantages gained from relatively low labor and energy costs.

We found Tungsram's greatest strength to be technology, technology sophisticated enough that Mercedes Benz and BMW use Tungsram headlamps on some of their models. It also turned out, as we swapped technologies, that Tungsram had more expertise in the chemistry of tungsten filaments than GE. A two-way technology flow is now strengthening both companies.

We also found a proud institution, an institution with strength and character. If anything, we underestimated just how well-educated, hard-working, highly-skilled and loyal Tungsram employees are.

Finally, we found a company not only with a base in Central and Eastern Europe, but with 70 percent of its sales in hard currency countries and a 7 percent market in Western Europe. The strategic fit for us was clear: Tungsram would gain a European manufacturing base and distribution channels for GE Lighting ahead of 1992; ultimately, Tungsram could be pivotal in building global leadership for GE Lighting to add to its domestic U.S. leadership position.

But close scrutiny revealed Tungsram not only to be a company of world-class potential, but also a company constrained by the accumulated inheritance of four decades of regional problems.

Let me be candid, and I hope constructive. We found too much bureaucracy . . . too many layers . . . too many reporting requirements . . . too much data and too little analysis . . . and virtually no office automation. We also found rudimentary accounting and financial management processes . . . under-developed marketing and pricing capabilities . . . product and process quality problems . . . and a company virtually starved of investment funds.

We found, in short, an extremely uneven terrain. Both the elements of Tungsram's success—and its shortcomings—became quickly apparent. We faced the challenge of integrating Tungsram into GE Lighting at a reasonable pace, and we also needed to pick the right person to take charge.

GEORGE VARGA: RIGHT OUT OF CENTRAL CASTING

GE enjoys a reputation for the strength and depth of its management team. Yet it was not immediately obvious to us who would be asked to take the sensitive job of leading Tungsram and GE through its transition and into the future.

But then a 28-year GE veteran, running a $500 million a year plastics plant in the Netherlands, came to mind. His name: George Varga. His qualifications, as we say in the U.S.: right out of central casting.

Budapest native and nationally-known teenage soccer hero; exile of the "Class of '56" turned naturalized American citizen; All-American soccer star at Western Maryland College and armed with a Masters degree in Economics from Stanford; top-performing GE manager: George Varga left Hungary, as he says, "with only the clothes on my back" not to return for 34 years, and then to head the largest industrial company in the country and the most visible Hungarian venture with the West.

George Varga and GE Chairman Jack Welch met together last year with President Goncz in Budapest. Varga later said, "If anyone had suggested I would some day be back in Hungary, sipping coffee with the President of the Republic—a man who was at one time on death row for his political beliefs—along with the chairman of a major American corporation, I would not have believed it."

The value of a Hungarian-American as President and CEO of Tungsram at this time—and the personal contribution that George Varga is making—cannot be overestimated. Being a native Hungarian speaker doesn't hurt when, as Varga says, "We're trying to mesh two cultures." Our task is not to impose GE values and practices on Tungsram, but to integrate the best of GE and the best of Tungsram. And we think we have the elements of a very strong combination.

GE/TUNGSRAM: THE PEOPLE CHALLENGE

We made several early commitments that immediately linked Tungsram's needs to GE's. One was to invest $50 million in the first three years, as well as to reinvest almost all of Tungsram profits for at least the same period. Another was to transfer advanced product and process technology.

We also made a commitment to transfer knowledge and to train Tungsram employees. We are focusing on basic management skills and special functional skills such as finance, marketing and information processing. Our training is casting a broad net. For example, just this week, Tungsram middle managers drawn from several plants are meeting with their counterparts at our Winchester, Virginia lighting plant. Their mission sounds mundane: learning preventive maintenance. But that's exactly the kind of improvement that will transform Tungsram's productivity.

As important—and more difficult—is training that focuses on the elusive but crucial issues of company culture. We hesitate to impose "American" culture. But there is one set of cultural attitudes that may seem all-American to many of our Hungarian colleagues. That is encouraging individual Tungsram employees to take responsibility for their work and its results. It's a difficult set of attitudes to measure, but we believe that emphasis on "soft" values often translate into "hard" results such as productivity growth.

We are conscious of the fact that the spotlight is on GE/Tungsram, giving us a special responsibility to move forward—with special sensitivity—the simultaneous processes of competitive restructuring, work force reductions and worker retraining. The necessary downsizing of the Tungsram work force is being achieved mostly through the combination of attrition, early retirements and a hiring freeze. At the same time, we are raising base pay for the remaining work force, and awarding merit raises based on measurable results.

A crucial part of the transition is union-management relations. The old company-tied union became independent in June, 1990, and a new leadership was elected. Our attitude is clear: develop a partnership with the union that will allow an effective voice for Tungsram employees. Free unions are intrinsic to free societies: free unions offer, in this case, authentic representation to their members and interests; they can also act as pragmatic partners with management, once trust is established.

We're also trying to make a broader contribution—beyond Tungsram—to worker retraining and the transition to a market economy in Hungary. The GE Foundation is funding a set of local labor market studies and community-specific job training programs to help Hungarians through this period of wrenching change. In the end, investment in people will help determine the pace and success of economic change both for Tungsram and the country.

RAISING OUR STAKE: CONFIDENCE IN THE FUTURE

Things are going well: so well that just last week, GE lighting announced that it has increased its ownership of Tungsram to 75% plus one share. The additional stake, representing a 19% increase in ownership, is a further demonstration of GE's confidence in Tungsram, its people and its progress.

At the same time, we announced a plan to increase capitalization in Tungsram in the near future to accelerate manufacturing efficiency programs and new product introductions. We are confident that Tungsram's strenghtening product line will translate into growth in European and world lighting markets.

Tungsram has gone a long way to position GE Lighting as a European and increasingly as a global player. So too has our acquisition last November, almost exactly one year after the Tungsram transaction was announced, of the UK-based lighting operations of Thorn EMI. We're now in a credible position to take on Philips and Osram in their European home base.

THE GE/TUNGSRAM STORY: THE LESSONS ARE LIMITED

The GT/Tungsram story is still unfolding after eighteen months, with many difficult chapters, no doubt, still ahead. I suggest caution in drawing any particular lessons from our experience to date. Several unusual—even unique—sets of circumstances were at work:

First, GE had a long-established familiarity and set of links with Tungsram. Other prospective investors may find this aspect of our venture to be the least difficult to repeat.

A second unusual circumstance was the fact that we were not acquiring a wholly state-owned enterprise. Tungsram's ownership first shifted in September, 1988 when 49% of its shares were sold to a consortium of Austrian banks. So when GE conducted its intensive negotiations with the Hungarian government and the Hungarian Credit Bank in November, 1989, Tungsram's ownership had already been passed in substantial part to a free-market seller.

Finally, many early decisions and actions affecting the future of GE/Tungsram were set in motion while the former government remained in power, before free elections were held last spring. That was both an advantage and a disadvantage: an advantage to the extent that we initiated the transition while consulting fully with the government then in power; a disadvantage to the extent that it became increasingly clear that the political environment and players would change.

So in at least these respects, it is difficult to envision a "GE" or "Tungsram" model for scouting the prospects, structuring the transaction, or moving a transition period forward.

But the same positive set of factors that attracted GE to Hungary applies for other prospective investors, especially the American investors who accounted for 40 percent of all foreign working capital in the country at the end of last year. These factors include:

Extraordinary demand for western capital and consumer goods and services.

Proximity not only to other Central and Eastern but also to Western European markets.

Entrepreneurial subcultures that survived through the Communist era and enlivened the Hungarian economy.

As importantly, a highly-talented, universally literate work force for whom English is replacing German as the most common second language.

These advantages continue to offer opportunities to other companies—large and small alike—in other industries. Major investments have already been made in diverse sectors of the Hungarian economy . . . from banking and financial services . . . to telecommunications and media . . . to autos and steel.

HUNGARIAN PROBLEMS/HUNGARIAN OPPORTUNITIES

Hungary remains the Central or Eastern European nation that is most attractive to foreign investors. But not unexpectedly, its economy also remains troubled:

Its $21 billion debt is the highest per capita in the region; Poland, not Hungary, has emerged as the regional laboratory for drastic debt reduction tied to substantial Western aid.

Trade with the former Comecon nations—especially with the Soviet Union—has virtually collapsed with the switch to hard currency trading in January. Hard currency trade with the West is not picking up quickly enough, and 66 percent of export earnings go to debt service.

Inflation is climbing, real incomes are declining and unemployment is increasing . . . all converging at the same time and all combining to depress national morale and confidence.

Finally, privatization is off to a slow start, and the politically-charged issue of property restitution stands unresolved. Addressing both issues is crucial not only to mark the way forward for economic development and liberalization, but to attract additional foreign capital and investment commitments.

It goes without saying that the greatest responsibility for helping Hungary rests with the Hungarians themselves. Hungarian opportunities rest on solving Hungary's problems.

But the fact is that Hungary's resources and options are severely limited. I believe that the government can improve the situation not only by clarifying the ownership and title issues and by setting forth its privatization priorities, but also by focusing on ways to build—not just distribute—capital. At the same time, foreign investors like GE can work closely with the Hungarian government to lower trade barriers so that Hungarian products can compete on a more level playing field.

AID VERSUS TRADE REVISITED

If trade is part of the answer, aid is another. Balance-of-payments aid directed to objectives such as debt reduction is extremely helpful; so too is development aid that includes grants and loans for capital projects, export credits and insurance, plus direct technical and training assistance. The West got off to a strong start in late 1989 with the G-24 assistance effort, but the actual flow of funds has so far been modest. The U.S. moved quickly at the end of that year with the SEED I programs targeted to Poland and Hungary, but has yet to move forward with additional SEED II aid. The G-24 aid structure remains in place, but attention and resources are now largely directed elsewhere; first and foremost, and for the foreseeable future, on the financial and social costs of German reunification; more recently, on the long-delayed but now launched European Bank for Reconstruction and Development; and now most immediately and momentously, on the prospect of massive aid to the Soviet Union.

My aim this morning is not to elaborate further on the aid situation except to encourage the prompt passage, finally, of the SEED II bill that broadens and deepens the U.S. commitment to the region. Nor do I have an academic interest in contributing to the old "trade versus aid" debate in the new context of Central and Eastern Europe. But that phrase does help frame the real issues. The best answer, of course, is to encourage both trade and aid. But if forced to make either/or choices—given the Soviet situation, on top of Gulf War costs and compounded by global recession—then I think that trade is the best and most realistic answer . . . trade even more than aid, although the absolute need for aid may well continue through the Nineties.

Trade is hardly the easy answer; it means exposing U.S. and EC markets to many low price products that will be competitive. But trade is the best answer: it is the lifeblood of the global economy; it is also the only sure route to open market economies in Central and Eastern Europe and eventually to a fully prosperous and integrated European Community.

Hungary moved to lift virtually all restrictions on imports at the beginning of this year, throwing its economy open to the rigorous test of competition. For its part, the U.S. can and should encourage more Hungarian imports. But trade and investment links with the EC will naturally play a far greater role in the economic revitalization of the region, for both historical and geographic reasons. We will be watching with great interest the extent to which the EC assures market access for Central and Eastern European products.

Trade policies during the transition period to what many observers expect to result in full EC membership by the end of the decade—at least for Poland, Hungary and Czechoslovakia—should be as open and liberal as possible. The EC should relax the trade regimes that currently apply to "state trade" economies. At the same time, the EC should move away from sectoral protection, especially in the few agricultural and industrial sectors where the Central and Eastern European nations stand a chance of being competitive in the near term.

The EC, much to its credit, has extended the duty-free benefits of the General System of Preferences (GSP) to Poland, Hungary and Czechoslovakia. Through the duration of that arrangement—or any successor tariff scheme—it is important that as few exceptions as possible are made.

The EC can continue to approach these issues on a biliteral or limited regional basis. Or it can act on a multilateral basis by joining with GATT members in these final months of the Uruguay Round to further liberalize trade regimes affecting Central and Eastern Europe. Whatever the approach or the forum, the Western European nations have both a special responsibility and specific ways to help. They should do so.

CENTRAL AND EASTERN EUROPE: STILL THE GREAT DRAMA

World attention has, understandably, focused on other events and issues over the past year. First and foremost has been the Iraqi invasion of Kuwait, the Gulf War and its aftermath. Natural and human disasters have struck from Bangladesh to Ethiopia; at the same time, global recession has constrained resources and narrowed horizons. To the extent that problems pertaining to the former Warsaw Pact nations have remained in focus, the issue has been less the prosperity of Central and Eastern Europe than the survival of Mikhail Gorbachev . . . and less the reintegration of those nations into the world community than the possible disintegration of the Soviet Union.

There are good reasons why those events and issues have commanded the attention of the media and policy-makers alike. But there is no doubt that the intensity of the focus on Central and Eastern Europe that was apparent twelve and especially eighteen months ago has diminished. Moreover, apart from transactions associated with German reunification, there has been a slowing down in the pace of Western—including American—investments in the region.

These are understandable trends, reflecting realistic assessments. Some would call them less short-sighted than clear-eyed.

But now is the time to refocus on Hungary in particular and on Central and Eastern Europe in general. The fact remains that the fate of the former East Bloc nations—and of course the Soviet Union—remains not only the great drama but the great set of events and issues of the late twentieth century. This proposition is certainly true from their point of view. I believe it should be true from ours, too.

Both bilateral and multilateral direct aid will have appropriate roles to play through the Nineties, and both on a region-wide and country-specific basis. Yet trade and investment—government-supported to be sure, but essentially private, flowing from enterprise to enterprise—will emerge as the broadest, most responsible form of engagement that the U.S., the EC and Japan can pursue.

Bad, uneconomic deals are in no one's interest. But a long view—and patient capital, for those who can afford it—are in everyone's interest. And it is not only big companies with that kind of staying power who should keep looking; it's also smaller companies with proven niches—such as environmental technology—who can contribute and profit at the same time.

Hungary and the other Central and Eastern European nations will rebuild their economies and reintegrate themselves into the rest of the world. The real issues are on whose terms, at what pace, and with what short- and long-term cost or benefit to the global economy and to the political community.

A truly clear-eyed assessment, I believe, reveals both serious problems but even greater opportunities. Finding the way between them will not be easy, but we at GE believe it will make history.

Thank you very much.

TRIBUTE TO GEN. AL GRAY

Mr. WARNER. Mr. President, images of the war in the Persian Gulf remain vivid in the minds of all Americans. From televisions and newspapers, and virtually everywhere we turned, we saw or heard the tale of conflict in the desert through vivid imagery made possible by the advanced technology available today.

I remember so well, the image of field commander Gen. H. Norman Schwarzkopf outlining in detail the various phases of Operation Desert Storm that resulted in the allied victory over Iraq. One particular aspect of the early stages of the ground war he described was the entry of the 1st and 2d Marine Divisions into Kuwait, and their breech of the enemy defenses at the border. The field commander told the media and the Nation that the performance of those Marine divisions was text book perfect, and that their achievements in the field would be studied for years to come as the model for operations of that kind.

Every marine well knows that the tremendous success of their fellow marines—not only in the gulf war, but in missions all over the globe—is due in no small part to the leadership of one man, their Commandant, Gen. Al Gray.

General Gray recently retired after more than 40 years of service to his Nation in the military. And I am privileged to have this opportunity to remark upon the distinguished career of the 29th Commandant of the Marine Corps.

There is much about Al Gray that is extraordinary, starting with his length of service. In October 1950, he made a commitment he would keep for over 40 years, when he enlisted in the Marine Corps. That commitment was to his Nation, to the Marine Corps, and to his fellow marines. Throughout those many years, his commitment has been unfailing; indeed it has been an inspiration to many.

A brief look at General Gray's career illustrates the inspiration to which I refer. He enlisted in 1950 and achieved the rank of sergeant in combat in Korea. He was commissioned in 1952, after which he has the rare distinction of having served as a communications officer, an artilleryman, and an infantryman. His service is also distinguished with valor. Wounded three times in two wars, Al Gray has been awarded the Silver Star, two Legions of Merit, three Purple Hearts and four Bronze Stars.

In light of his combat service, it is not surprising that as Commandant, General Gray has emphasized the basic principle of the marine as a warrior. While he has been at the forefront of the promotion of educational programs and acquisition of weapon systems that facilitate the mission of the Corps, the manifestation of this guiding principle of the marine as warrior is not often seen until the marines are in combat, performing the duties they have been trained to carry out—as we saw so brilliantly done in the gulf region.

It is in the execution of this duty that we recognize the look in the eye of a marine that tells of the fierce commitment they made at Paris Island, Quantico, Camp Lejeune, and other Marine camps around the country and the world. That commitment is modeled after Gen. Al Gray.

An extraordinary man it is indeed who has molded the Corps into a force to be reckoned with. For all his achievements, however, General Gray has never lost sight of his enlisted days. In him, every marine knows they have a comrade-in-arms. The trappings of leadership are frivolous to a man whose foremost concern is for the welfare of his marines. His charismatic leadership is tempered with a sense that he is only one member of the Corps, a marine as ordinary as the newest recruit.

President Ronald Reagan said, "Some people live an entire lifetime and wonder if they have ever made a difference in the world, but the marines don't have that problem." Al Gray certainly knows of the tremendous difference he has made in the world. And he has seen to it that each and every marine is instilled with the sense of duty and courage that ensures they, too make a difference in the world. The Commandant's legacy has already begun to be witnessed in the sands of the Arabian desert. But we will continue to witness the legacy of the work of Al Gray for many years, and we can fully expect that generations to come will read about the Commandant and his marines in history books.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1241 on which there are 10 hours remaining under cloture. 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.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. 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 (Mr. KOHL). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, we have, for the better part of 2 weeks now, been discussing a crime bill, as it is generally called, and maybe with cloture invoked, we will see the end of the debate today.

I would like to take a moment to offer some reflections on the subject and to discuss three amendments which I will offer at the appropriate time.

The first is to say that the fact of the Senate returning, once again, to this subject reflects the level of concern in the Nation. The very able Douglas Turner of the Buffalo News wrote his own comments on this recently. He described a public that had commenced to feel victimized by street crime, by

the randomness of violence that has emerged in this Nation, and that wants some response.

Not to be surprised. We see this at every level in our society. We are a society violent in ways that is not known to other industrial democracies. Canadians do not follow what happens across their border.

We are violent in ways that are anarchic, increasingly so. There has always been violence in the United States, as there is in almost any society. Typically, until very recently, it was murder between persons who knew one another. Any police officer will tell you that the most dangerous situation he ever will get himself into is domestic violence when there is a weapon involved. That is part of life. It is not threatening to society.

What is threatening to society is the murder of a mother of three children driving along North Capitol Street on her way home having visited her own mother and finding herself between the gunfire of rival drug-related gangs with semiautomatic weapons. A mother was murdered. A 21-year-old was arrested, and he will go to prison probably, and he will stay awhile and come out and do more of the same. Some criminals will be picked up and some will not.

The appearance of that 21-year-old was forecast, if I may say, in an article in American magazine in 1965. I wrote that any society that allows a large portion of its young male children to be raised in anarchic family situations with no male authorities present—with no reasonable prospects in life, with no networks for entering an adult world that will channel them into reasonable prospects—that society asks for and gets chaos.

I said that from the wild Irish slums of New York in the early 19th century to the ghettos in 1965, the result has always been the same. Nobody could hear that then or, if they heard it, they said it was not so. So here we are a quarter century later thinking up new forms of the death penalty.

The death penalty will have no influence whatever on the behavior of these children. It might influence the behavior of a banker, marginally influence that of adults involved in calculated crimes where costs and benefits would be a matter of some consequence being the only reason you are involved, but generally speaking, no. The death penalty would not have deterred that 21-year-old arrested today if, indeed, he is the person involved. Somebody was involved, and that happens everywhere.

In the city of New York, the mayor went to a housing project where he announced that they were going to do something about guns in public housing, and in the middle of the ceremony a firefight broke out a block away. The mayor, a former Marine, stood his post but everybody else dived to the pavement.

These are the elemental social origins of what we are dealing with. I say it again, I said it would come, and it has come, and I do not see any prospect of it going away for a long while.

So most of what we are doing today is futile. Part of it partakes of a quality I find difficult in dealing with, and that is of vengeance. Two thousand, five hundred years ago Aristotle described justice as the application of reason devoid of passion. I, for one, have never felt that the death penalty was an impossible or forbidden exaction by society in response to behavior by individuals, but I have certainly never thought it should be an exaction of vengeance. The vengeance degrades those who take it as much as those who receive it, and we have had too much of that on this floor.

I have said, not with any sense of derision, a sense of anger, that much of the debate I have heard in the last 2 weeks comes down to a simple proposition: "throw the switch and watch them twitch." To take pleasure out of pain.

I do not think it becomes us as a body. If I vote for this bill at all, it will be on the condition that most of these obscene provisions are withdrawn in the conference, as the chairman clearly anticipates he will do.

But we have taken enormous liberties with habeas corpus. The great writ, habeas corpus is eroding before our incapacity to understand what we are dealing with. If only we could reach back and see what we now have, that 21-year-old apprehended for the murder of a mother of three with no father. That fact was denied and now that it has come it is not recognized.

Well, that is the price of a society that is careless about some people and distracted in other matters.

I have just come from the Committee on Foreign Relations where the Secretary of State presented an extraordinary treaty, the Conventional Forces in Europe Treaty. It marks the end of the cold war—over. A 50 years' crisis, 1939–89, is over. The Soviets have withdrawn most of their forces from Eastern Europe, west of the Urals. The Secretary of State has said it is over.

Whether we can now come back to our domestic concerns as Europeans long since have, I do not know, and whether we will do well when we do, I am not sure either. I have seen how much worse things are.

In my city of New York, I was raised on the west side in an area known as Hell's Kitchen, and we were sort of a mythic street warrior cast. If you look back, it was the heavenly kingdom, a peaceable kingdom: Random violence very contained, a social structure clearly in place, all of it disappeared right before our eyes. A real regression in behavior and character has happened in this society. The disappearance of family structure and of political structure, the decline of things like trade unions with the economic structure involved the organized geographic structure of religion disappearing. And as the consequence, random anarchic crime.

Now, what can we do about it? Mr. President, when you start dealing with a subject of this kind, it is an ethical responsibility to say I am not going to get rid of this problem altogether.

I am going to try to do something about it. I am going to try to make it a little easier, to ameliorate it.

I was meeting yesterday with a group of officials of a New York hospital. We were talking about some of these things. I made the remark, "You know, everybody who goes into your hospital dies." They paused a moment, and they said, "Yes, that is right, they all die. Not at that hospital, but in time all of us will die. And one of the conditions of life is the interval."

One of the things I would like to say about guns is that guns do not kill people; bullets kill people. It has been 15 years since I have been here we have debated gun control, and we have never really addressed the question of ammunition control, which makes the argument that this whole matter is symbolic. Symbolic behavior has its role. I am not against it. But I am not taking it very seriously.

Here is the fact, sir. There are about 200 million guns in the United States in private possession. That is about a two-century supply of guns.

Recently—it has been years now—the first Colt repeating revolver was sold at auction, with the stamp 0001, in perfectly good condition, a century and a quarter old. If you do not leave them out in the rain, and you do not fire them continuously, a handgun lasts a very long time.

It was one of those earlier experiences that tends to fix an idea in your head. I was once an officer on the deck on our ship in the Port of Spain almost 50 years ago. We all had .45 caliber weapons, clip-loaded and standard issue. It was a midnight watch, the Caribbean, nothing much to do. The gunners mate and I just decided to take the .45 apart and get to know the weapon. You are supposed to do that anyway; not on watch, but there was nothing very threatening.

Among the things I remember was the weapon had been manufactured in the Springfield, MA, armory in 1911. There is some ensign carrying it to this day. I say to you, we are changing over to a Beretta 9 millimeter. Those .45's are much too heavy a round. A 9 millimeter round will stop anybody just as well. The .45 is for bear.

But, the Army or the Navy gets 75 years use out of a .45, with no problem at all.

I said we have a two-century supply of handguns. We have about a 4-year supply of ammunition. The inventory

of ammunition seems to turn over about every 4 years. We seem to manufacture as much as we consume.

Ammunition degrades unless it is stored in the proper setting. But in the main, most rounds will last until they are used. That is not a long period. They are used quickly.

This raises the question, Should we be paying attention to the manufacture, sale, and distribution of ammunition as well as guns? I would have thought so, if you care about people dying. That young mother who died 2 days ago on North Capitol Street—North Capitol Street runs from here for about a mile—died from a bullet, not a gun. Had bullets not been available, she would be alive.

The interesting thing is that we have this curious organization called the Bureau of Alcohol, Tobacco and Firearms, which is in the Department of the Treasury. Exactly how did we get these things together—tobacco and firearms? It is just a collection of revenue activities, and firearms somehow came into it.

They also regulate the manufacture of ammunition. If ever a deregulator's dream, it would be the way the BATF handles this matter. You write a letter, and enclose a postal order for $30, and they send you a license to manufacture as much ammunition as you want of any kind for 3 years, and no reporting to BATF. You can make 100 million rounds of 9 millimeter ammunition. It is your business; you paid your $30.

We really do not know anything about ammunition. The FBI's Uniform Crime Reports, for example, which is based on information provided by local law enforcement agencies, does not report the caliber or type of ammunition used in a crime.

I read in the Washington Post this morning that they apprenhended a young man, 21 years old, who is alleged to have fired the weapon that resulted in the death of this young mother. It is not part of police reporting to say it was a 9 millimeter. Or a .32 caliber, or .25 caliber. That does not get into our structure of thinking about crime. It is the first thing I would want to know. But I did not find it in the papers, and the police did not tell the papers.

The FBI will report the murder, but not the slug. The importers of ammunition are not required to keep any records to report to the Federal Government; manufacturers are not, either.

Well, if you do not care about this, you do not care about handguns; you care about the symbolism. No State in the Union, I think, has stricter handgun control than the State of New York. They date from Governor Rockefeller's period. Possession of a weapon gets you a year in jail. It went into effect just before the Democratic National Convention in 1976.

The first person arrested, I am sorry to say, was a Democratic delegate from the Western States. He carried a gun. He thought while he was in New York, he should. He saw a woman being molested, and he pulled the gun to protect this lady, who turned out to be an undercover police officer. The whole thing was a misunderstanding. But it has had no effect, as far as I can tell, on anything except perhaps increasing our prisons.

We are now getting a distinction. We have more people in prison in the United States than there are in the Soviet Union.

That is something to think about. More people in prison in the United States than in the Soviet Union. I think that is the case; we do not really know. Boris Yeltsin will get us the numbers pretty soon. Remember, many of those people in prison in the Soviet Union had not done anything but write a book. Ours are in prison for violent crime, in the main.

I have an amendment which I hope will be accepted and, if not, we will have a vote, which would require that the importers or manufacturers of ammunition keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms describing the caliber, amount, and type of ammunition, and will also ask the Secretary of Treasury, in consultation with the National Academy of Sciences, to conduct a study of the regulation and criminal use of ammunition, and to make recommendations on the efficacy of reducing crime by restricting access to information.

These things are public health emergencies. Much of the violence in the streets came with the advent of crack cocaine. We did not see it as an epidemic. About 4 weeks ago, the press announced the 10th anniversary of the onset of AIDS, the acquired immune deficiency syndrome. Ten years earlier the death of four males in southern California with a certain mysterious and possibly important disorder, was reported by Morbidity and Mortality, the weekly report of the Centers for Disease Control in Atlanta, which is our epidemiological center. They put out a weekly report of new strains of malaria, or whatever, and doctors spot it and hospitals see it. They spotted this.

Crack came, and they did not spot it at all. Crack appeared in the Bahamas in 1983. It was a mutant—things like morphine and cocaine and heroin are all the products actually of German laboratories in the 19th century where the chemistry was developed. Heroin was a trade name that Bayer aspirin manufactured. They tried it on their employees, and it made them feel heroic. I have seen heroin advertised in 1910. They are all now banned by the Harrison Act. Free base cocaine was figured out in a kitchen in the Bahamas, which is an entry point, as they say, for cocaine from South America making its way to the mainland, much as rum did in the Prohibition. This is the last statute of the Prohibition that is still in place. Free base cocaine produces extraordinary effects, and Dr. David Allen, the head of the Sandilands Rehabilitation Hospital in the Bahamas, observed. Doctor Allen was trained at Harvard and Yale, a physician, a psychiatrist, head of the Bahamian Drug Council. In 1985, he made a public statement saying, "What we have is the world's first free-basing epidemic which could be preceding an epidemic in the industrialized states." This got published in the Atlanta Journal. Nobody paid attention. In the spring of 1986, Allen and associates published an article, the lead article in the Lancet, which is the Journal of the British Medical Society, one of the most prestigious in the world. It was entitled, "Epidemic Free-Base Cocaine Abuse."

Again, nobody at the Center for Disease Control heard a word. I remember I first learned of it from Detective Charles Bennett in New York City, who, in the spring of 1986, said, "There are people standing around street corners snapping their wrists. They are up to something." About 3 months later he said, "They are selling something called 'crack'." That signal is of cracking a whip. Little by little, then, this epidemic spread. The medical profession paid no attention to it and did not see it becoming an epidemic of murders, as we have seen on North Capitol Street. I do not know whether the medical profession is able to do this. Merck's Manual, 15th annual, the standard reference manual for physicians, describes cocaine as "not addictive." There is no tolerance and no withdrawal symptoms. The medical profession could not see this public health emergency. We did not foresee that it would cause crime.

So, in hoping to get some attention to the subject of ammunition, I want to point out that some years ago, this body did pass the first statute ever to ban a round of ammunition—the cop-killer bullet, the armor-piercing teflon bullet. This bullet had been developed by amateurs who are interested in this subject, as a lot of Americans are. They thought they might be doing something to help the police, to let the police fire through escaping automobiles, for example, and penetrate the metal and glass and get to the driver. The police were interested, and then they decided it is best to be pretty sure who you are shooting. Then, in any event, the police began to develop body armor, which became very important to them, and found that this round would penetrate that armor.

Mr. Phil Caruso of the New York City Patrolmen's Benevolent Association came to me, asked if we might try to get it banned by Congress. We offered the bill. The National Rifle Association

went ballistic, if that is the term. I think that is not what we really mean. Ballistic means that after all your power is expended you are on a descending arc back into the Earth. Their rockets went off, I shall say. But then they found, rather to their surprise, about a quarter of their members are police officers and did not like cop-killer bullets one bit.

In the end the NRA cooperated with us. A distinguished former President pro tempore, Senator THURMOND, cosponsored the bill and we passed it. So we passed the bill banning a round of ammunition. That happened before; it could happen again.

That would be the purpose of my next amendment, Mr. President, which would be to ban the sale, the importation, and manufacture of .25 caliber, .32 caliber, and 9-millimeter ammunition.

An exception would permit Government agencies to obtain such ammunition.

Let me, it if may, give you just a few numbers. I see other Senators wish to speak; I do not want to draw this on indefinitely. The .25 and .32 caliber are tiny rounds not much larger than a .22 which are used in "Saturday Night Specials," cheap and concealable guns.

In New York City 13 percent of licensed guns used .25 caliber or .32 caliber or 9-millimeter ammunition. Of guns seized by the police during 1990, seized because there is some criminal activity, 44 percent used these calibers. They are primarily used for holding up people and shooting people.

These calibers have accounted for 38 percent of all murders in the city in 1990, and they are altogether disproportionate where trouble comes from. We could ban .25 and .32 caliber and 9-millimeter and never hear a complaint from anybody as far as I can tell.

I have been putting this bill in, Mr. President, for some years, Nobody pays attention to it because it does not solve the problem. It just reduces it.

But to make my point again, the hospital administrators said yesterday, everybody, every man, woman and child, who goes into hospitals dies, eventually. But what happens in between then? This would not eliminate murders; it might cut them by a quarter. Well, if you were one of the persons whose life was spared, it might be worth it to you.

Nine millimeter is another matter, sir. I was down in a New York City firing range a while ago checking out the new guns, and we have a very serious pattern in New York. I bet it is happening in other cities. That is, our police are beginning to be outgunned. Our police are down on the street with .38 revolvers. There are people on the roof with 9-millimeter semiautomatics. They have much faster muzzle velocity and spraying capacity, which you need if you are a kid and cannot look, cannot sight, cannot hold, and do not understand weapons. You can spray with these weapons. People pay fortunes for them; $1,200 will get you a pretty good weapon. These guns are beginning to appear on the streets of New York. If it is happening in New York and Washington, it is going to happen in Miami.

They have that look of those fancy sneakers, as we used to call them. I do not know what they call them now. They cost $400 for a pair of $5 sneakers or whatever. These handguns have lots of chromium, lots of little holes and things like that that can make a 19-year-old think he is not a 19-year-old and think he is invulnerable. Most 19-year-olds think they are invulnerable anyway. That is the way the species turns out adults.

But those $1,200 guns with a clip may use a 30-round clip in less than a minute in a 9-millimeter semiautomatic. If you use up that clip and cannot get another, you just spent $1,200. You cannot do anything else with that weapon; you can throw it from the roof top, but cannot shoot it.

These 9-millimeters are wicked and they are easily gotten. They are all banned in New York, but they are there on the roof tops.

I do not know any other way to get at them than to cut off the supply of ammunition. Maybe that is too complicated an idea for the Senate. I suspect it is. We did it once on cop-killer bullets, but I guess we really would rather throw the switch and watch them twitch. That is our idea of what to do.

Lastly, Mr. President, I am going to ask about one simple matter which comes to this Senator from the Fraternal Order of Police, from the U.S. Conference of Mayors, on behalf of the International Association of Chiefs of Police, from the Honorable Lee P. Brown, who is the police commissioner of New York and is now currently serving as president of the IACP.

This is a simple measure. It would deal with a loophole we have in current practice which permits a Federal licensee to order an unlimited amount of guns from a manufacturer whether or not that licensee is legally permitted to sell them under State and local law.

I guess the nicest example would be here in Washington where sales of handguns are banned. However, if you have a Federal license to receive and deal guns in interstate commerce you can have a house in Washington and have arms shipped to you from outside the District. In other jurisdictions you have a license to sell guns but you have to keep records, you have to account for what you are doing, that sort of thing.

It is a loophole, and the amendment would simply say to the Federal Government that before you give out a Federal license the person applying has to establish that he has met the licensing requirements of the jurisdiction in which he operates. It is not very complicated.

May I say, sir, that a Federal gun dealer license is not a big deal. You get a 3-year license for $30. Many AK-47s, I think, are now surplus because of the conventional forces in Europe Treaty. The Bureau of Alcohol, Tobacco and Firearms says there are currently 245,000 Federal dealer licenses in the country.

They receive 30,000 applicants a year and something like 2,500 are turned down. You send your postal order in for $30 and fill out an application, bang, you get your Federal license. And the result is you have people all over the country with Federal licenses who could not get local licenses or have not chosen to apply because they do not mean to operate in the open.

It is a simple amendment that says to the Treasury Department: Do not give a Federal license to someone who cannot demonstrate they have a local license, if a local license is required. If a local license is not required, fine, you do not have to do that, but they must meet the local rules. The chiefs of police ask this of us, the police officers ask this of us, the mayors ask this of us. It is not too much and it might save a few lives, policemen's lives, not the least.

I hope we could do that, Mr. President. This would demonstrate a sense of, first of all, responding to police officers on the street. But thinking in the matter of rounds of ammunition, of bullets, thinking as epidemiologists think, how do you break the sequences that lead to a disorder. If death is a disorder, a bullet is one of the vectors. That is the term they use in epidemiology, vector. It hits you in the lower back of the head and you die.

There is a dead woman in Washington today who left three children behind, randomly murdered. We do not know the caliber of the ammunition, and do not seem curious. We might give some thought to the fact that if 9-millimeter ammunition were banned, or if the manufacturer was at least recorded, that person might be alive.

The Senate has indulged me, and you have most particularly. I see other Senators have risen and wish to speak, and so I yield the floor.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters from the Conference of Mayors, Chief Brown, and the Fraternal Order of Police, and articles on this subject.

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

THE U.S. CONFERENCE OF MAYORS,
Washington, DC, June 25, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: Congratulations on your introduction of S. 1154, which would require applicants for a federal license to deal in firearms to have a state or local li-

cense for the same purpose. Your bill would close a serious loophole in our federal laws governing the sale of firearms, and it has the enthusiastic support of the U.S. Conference of Mayors.

We look forward to working with you on this and other legislation which addresses the serious problems of crime and violence in our cities.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

THE POLICE COMMISSIONER,
New York, NY, May 16, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senator,
New York, NY

DEAR SENATOR MOYNIHAN: I am writing to ask for your assistance in our common effort to reduce the proliferation and criminal use of illegal firearms in our city. As you know, Congressman Bill Green has introduced legislation that would require all Federal Firearm License applicants to submit proof that they are duly licensed under state and local law. I am asking you to introduce a similar bill in the Senate.

Under current federal regulations, applicants for Federal Firearm Licenses (F.F.L.) are required to be licensed with the state and local government of their residence. However, since applicants are not required to submit proof of their compliance with this requirement at the time of application there is no way to enforce the regulation. This loophole allows F.F.L. holders around the country to order weapons to be delivered to their houses or businesses without being licensed as firearm dealers or even having permits to possess firearms. There are nearly a thousand such F.F.L. holders in New York City. By contrast, only 77 individuals are licensed by the Police Department as firearms dealers. We are currently making efforts to contact these individuals to determine how many are actively using their licenses and to inform them of their responsibilities under the law. So far our efforts have led 18 individuals to surrender their licenses and the Bureau of Alcohol, Tobacco and Firearms is revoking an additional 83 licenses because of inaccurate addresses.

This legislation is consistent with our efforts to stop the flow of illegal weapons into our city and onto our streets. The enforcement of laws and regulations cannot be left to an honor system. I urge you to continue your efforts on this front by seeking Senate support for the concept embodied in this legislation.

With my best regards.

Sincerely,

LEE P. BROWN,
Police Commissioner.

FRATERNAL ORDER OF POLICE, NATIONAL LEGISLATIVE COMMITTEE,
Stafford, VA, June 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senator, Washington, DC.

DEAR SENATOR MOYNIHAN: Thank you for the opportunity to present our views on your proposal to amend the Federal Firearm Licensing law.

Such a gaping hole in existing law only serves to add to the proliferation of firearms that plague the streets of our Nation and increases law enforcement's burden in fighting the illegal "domestic arms race".

It is with great pleasure that, on behalf of Dewey Stokes, National President of the 230,000 member Fraternal Order of Police, we endorse and pledge our support for the passage of this important piece of legislation.

Yours truly,

ROBERT J. ROBBINS,
Leg. Comm. Member.

[From the Washington Post, May 8, 1991]

GUN DEALERS' "GREAT SCAM"

(By Michael Issikoff)

DETROIT.—The packages arrived at the United Parcel Service office twice a week—boxes filled with semiautomatic pistols and other handguns addressed to McClinton Thomas Jr., one of more than 7,200 federally licensed gun dealers in the city.

But when federal agents began looking into the shipments, they discovered that Thomas—operating under the name "MQ Firearms"—had never opened a gun store or kept records of his sales. Instead, federal agents said, Thomas ordered more than 400 handguns through the mail last year and distributed them for cash to gun runners working for a nearby crack house.

Thomas isn't charged with any crime, and in a recent interview he denied knowingly selling guns to drug dealers. But he acknowledged dealing "under the table" and illegally selling guns on the street.

"I never ask too many questions," said Thomas, 31, about his customers. "I didn't think I was selling to any homicidal maniacs or anything."

Thomas's activities illustrate what some officials say is one of the most gaping holes in federal firearms laws—and one reason for the proliferation in weapons that is fueling the nationwide surge in gun-related violence. By acquiring federal gun licenses—a relatively simple procedure that costs $30—illegal gun traffickers have discovered a convenient way to evade state and local gun control laws and acquire virtually unlimited quantities of high-powered weapons.

"It's a great scam—get a federal [gun] license, and you can buy and sell as many guns as you want," said David Krug, an agent with the Bureau of Alcohol, Tobacco and Firearms (BATF) office here. "and then you can drop them off as fast as you want—and not get caught."

The growing prevalence of such cases underscores the limitations of "piecemeal" gun control measures such as the seven-day waiting period scheduled to be voted on by the House today, some officials and gun control experts say.

The waiting period measure, dubbed the "Brady bill" after former White House press secretary James S. Brady, is designed to give local police time to conduct background checks on individual handgun purchasers, including reviewing federal and state felony records and making sure the buyers live in the residences they claim.

But federal officials say that abuses by loosely regulated federal gun dealers hold the potential for putting far more weapons on the street. "It's a loophole you can drive a truck through," said one federal law enforcement official.

There are 272,000 licensed gun dealers nationally—sports store owners, gun enthusiasts, Civil War collectors and "kitchen table" dealers who operate out of their homes. There are 2,400 licensed dealers in the Washington area, including 41 in the District where handgun sales to the public are banned.

Gun magazines promote the industry, carrying ads such as "Professional Gun Dealer Kit gives you everything you need!!" and "Federal Firearms License Guaranteed."

But increasingly, officials say, federal gun licenses have become a hot commodity on the streets, abused by illicit gun runners, drug dealers and others looking for fast and easy access to heavy firepower. In some of the city's drug-infested neighborhoods, "you have five, six or eight licensed [gun] dealers on the same street," said Bernard LaForest, special agent in charge of the Detroit BATF office.

But establishing criminal wrongdoing by dealers can be difficult. Last June, undercover BATF agents said, they trailed Thomas as he picked up boxes of handguns at the UPS office and then handed them over to two men in the UPS parking lot for large wads of cash.

The agents said they then followed the men to the crack house where, according to Krug, as many as 10 cars would congregate on the days that Thomas's UPS deliveries were due. Thomas said he did not know who was buying his guns, adding that all he knew was that a man named "Dave" he met playing basketball was willing to pay cash for his UPS shipments.

Thomas was arrested on gun charges last June, but a criminal complaint was dropped. Federal agents said they are continuing their investigation.

Since 1989, BATF has brought criminal charges against more than 270 licensed gun dealers. Federally licensed dealers have been charged with selling pistols to crack dealers and assault rifles to street gang members. Two Miami gun dealers, operating under the name "Commando's Gun Shop," sold machine guns to operatives of the Medellin cocaine cartel. An Ohio dealer shipped weapons to the Irish Republican Army.

In some of these cases, agents said, the licenseholders themselves turned out to be directly involved in the drug trade. Agents here said federal license applications surged after the head of one of the city's biggest drug gangs—who has since been murdered—acquired a license and began using it to arm himself and his associates. "It got to be a word of mouth thing," said Krug.

What makes such cases alarming is the sheer quantity of weapons to which gun dealers have access. It is illegal for ordinary citizens to buy handguns in a state where they do not live. Cities such as the District and Chicago prohibit the purchase of handguns and some states have banned military-style assault rifles.

But no such restrictions apply to licensed gun dealers. Licensed gun dealers "can purchase any handgun, rifle or shotgun anywhere and anytime," according to a recent BATF briefing paper on the subject.

A wide-ranging investigation into Detroit's illegal gun trade identified one licensed gun dealer who had imported 2,169 assault rifles and handguns through an Ohio wholesaler in the course of a year. The dealer, Larry Wilson, who was later convicted, kept no records of his sales and diverted most of the weapons to the black market where they sold for premiums of 300 and 400 percent, earning him proceeds of up to $1 million, agents said.

Carroll Brown, a Baltimore postal worker and licensed gun dealer, pleaded guilty last month to unlawfully selling more than 300 handguns, taking out classified ads in the Baltimore Sun touting his stock of semiautomatic Glock 9mm pistols—a weapon of choice of the city's drug traffickers. Gustavo Salazar, a Los Angeles gun dealer who agents believe once belonged to the "Mexican Mafia" street gang, purchased more than 1,400 handguns from wholesalers and, with an associate, hawked them out of a van in Lincoln Park, an area notorious for crack dealing and violence.

But some agents said that despite the Justice Department's push to impose stiff mandatory sentences on criminals caught carrying guns or using them in the commission of crimes, sentences for the licensed gun dealers who sell them their weapons remain light. Proving criminal intent is often difficult. Salazar received less than a year in prison, a term in line with U.S. Sentencing Commission guidelines for such crimes.

"The severity of sentences for licensed dealers hasn't caught up with the severity of the crime," said Steven J. Markman, the U.S. attorney in Detroit who has made prosecuting firearm offenses his number one priority.

At the heart of the problem, officials said, is the relative ease with which virtually anyone can receive a gun dealer's license.

All one need do is fill out a two-page federal form listing a place of business and hours of operation, and affirming that one is not a mental defective or illegal alien and has never been convicted of a crime punishable by more than a year in jail. The cost is $30, covering the annual fee for the first three years.

Approvals of license applications are routine. Most of the time the only check of applicants is performed at BATF's Firearms and Explosive Licensing Center in Atlanta, where four data processors run the applicants through the Treasury Department's law enforcement computer system. The system contains a data base of convicted felons, but officials acknowledge it is largely incomplete because it excludes arrests and dispositions from many of the states.

But applicants can avoid even that minimal risk by getting friends, girlfriends or even their mothers to file the application for them. BATF officials were embarrassed last year when they discovered they had approved applications for two dogs. "The point is well taken," said Jack Killorin, chief of BATF public affairs. "The dogs would clearly pass a record check designed for human beings."

John Struewing, assistant chief of the licensing center, said that between July 1, 1990, and last March 31, BATF received 26,190 applications for gun dealer licenses and rejected 38. Struewing said that another 1,403 applications were abandoned or canceled after BATF inspectors, having gotten a positive "hit" on the Treasury Department computer or a tip that something was amiss, contacted the applicant for a personal interview.

Once an applicant has gotten his license, it is rare that he will lose it. It cannot be revoked unless the dealer is criminally convicted. And one licensed dealer here had his license renewed two years ago despite his conviction on a felony charge of carrying a concealed weapon.

The loose regulation in large part reflects the peculiar politics of firearm law enforcement. For years, the National Rifle Association and other gun groups campaigned to abolish the BATF, accusing the agency of overzealous enforcement and harassment of gun store owners and other licensed dealers. In an NRA film made in 1981, Rep. John D. Dingell (D-Mich.), a member of the NRA board of directors, called BATF agents "a jackbooted group of fascists."

As a result of the NRA lobbying, Congress cut funding for BATF enforcement in the early 1980s and in 1986 passed a law that limited inspection of dealer records. The NRA is currently sponsoring a lawsuit in Ohio to block BATF agents from copying the records of firearm sales kept by dealers. BATF officials say they need the records for investigations like those they did here, tracing guns seized in crimes back to their source.

But NRA officials said they are adamantly opposed to "wholesale copying" of records. "That's a method by which you can register firearm owners," said James Jay Baker, the NRA's top Washington lobbyist.

BATF treads gingerly when it comes to gun dealers, according to Josh Sugarman, executive director of the Firearms Policy Project, a gun control group. "They have been kicked in the teeth too much," he said.

[From the New York Times, Jan. 4, 1991]

REVOKING LICENSES TO KILL

(By James B. Jacobs)

The Federal Bureau of Alcohol, Tobacco and Firearms and New York City, both license firearms dealers, but the city's licensing criteria are much more stringent, requiring fingerprints and a criminal-records check. Consequently, according to the New York City police, there are 1,043 federally licensed firearms dealers in New York City but only 77 city-licensed dealers.

Anyone with a Federal license can purchase unlimited firearms by mail order from manufacturers. The B.A.T.F. is required to grant an applicant's request for a license unless it has evidence that the applicant fails to meet Federal standards. Since the bureau does not require fingerprints or proof of eligibility, it essentially operates as an honor system. Moreover, while Federal regulations require prospective firearms dealers to follow all state and local laws and regulations, they do not require proof of having obtained a local license.

Not surprisingly, some federally licensed firearms dealers in New York City have criminal records and, even worse, are in business to supply weapons to criminals. A 1985 U.S. Department of Justice study found that 21 percent of armed criminals obtained their handguns directly through licensed gun dealers.

A small but eminently sensible step to take would be for Congress or the B.A.T.F. to require that applicants for Federal licenses provide proof of having met local laws for dealing in firearms. A New York City applicant would have to show that he had conformed to the city's demanding standards. If he could not make such a showing, he would be unable to obtain a Federal license—and unable to purchase firearms directly from legitimate manufacturers and wholesalers.

[From the New York Times, Dec. 6, 1990]

CONTROLLING GUNS: ONE IDEA STARTS WITH THE BULLETS

(By Sam Roberts)

Who was that 6-foot-4, white-haired man firing a TEC-9 semiautomatic weapon the other day on East 20th Street in Manhattan?

Hint: It was a United States Senator (but not Alfonse M. D'Amato, who was the target of considerable flak himself four years ago after he donned a disguise and ventured uptown undercover to dramatize the availability of illegal drugs). The gun-toting Senator was Daniel Patrick Moynihan. And in the privacy of the Police Academy, the New York Democrat was test-firing drug dealers' weapons of choice.

"What chilled me," Mr. Moynihan said later, is that some of the 9-millimeter semiautomatics are 'street dude' stuff. They have comic strip chromium that makes them look like space guns. But they are absolutely deadly, and they consume an enormous amount of ammunition."

Gun controls—among them the "Brady bill" restrictions, which Mr. Moynihan supported and which would have imposed a waiting period for purchase of some weapons—died again in Congress this year. Given the number of guns around, though, the Senator suggests a companion measure: transform the very appeal of the semiautomatics—their rapid-fire capacity—into a liability by banning the manufacture, transfer or importation of the bullets those weapons consume.

Mr. Moynihan says he will introduce legislation next month to restrict the availability of ammunition for 9-millimeter weapons and of bullets for cheap .25-caliber and .32-caliber Saturday night specials, which he said have little value to sportsmen.

"Measures such as the Brady bill are basically ethical statements, and greatly to be admired," he said. "But they won't reduce the number of handguns out there."

Predictably, his proposal is opposed by the National Rifle Association. "Trying to ban ammunition is a poor substitute for tough criminal justice measures," said Jim J. Baker, director of the N.R.A.'s Federal lobbying division.

"To ban two or three gun calibers in the hope that somehow a criminal isn't going to get another isn't very effective, even for those who favor gun control."

Indeed, one such group, Handgun Control Inc., has not embraced Mr. Moynihan's suggestion, preferring instead to "focus on taking handguns out of the wrong hands."

The Federal Bureau of Alcohol, Tobacco and Firearms supported a bill, pressed by Mr. Moynihan and former Representative Mario Biaggi, among others, that would have banned so-called cop-killer bullets capable of piercing body armor. But Jack Killorian, a bureau spokesman, said the Senator's latest proposal "doesn't sound like it's in line with the way this Administration has wanted to go, which is to punish criminals."

Charles R. Thomson Jr., who heads the bureau's New York office, was officially noncommittal, but said, "Guns aren't like drugs; they aren't consumed." Which is precisely Mr. Moynihan's point. Moreover, guns don't kill; bullets do.

"If we have, say, a century's supply of hand-guns, we have only about a four-year supply of ammunition," the Senator estimated—a rough estimate of the volume of .25- and .32-caliber bullets, since the Government requires virtually no record keeping, said Amy Barrett, who heads Mr. Moynihan's New York office.

By banning bullets for .25 and .32-caliber and 9-millimeter weapons, Mr. Moynihan said, "in 5 or 7 or 10 years, anywhere from 10 to 20 percent of the crime guns in the United States will be out of commission." Many will be replaced; meanwhile, some lives might be saved.

"Police officers are outgunned; they can't live with automatic weapons fired from four-story buildings. There's bulletproof vests, no bulletproof helmets," he said. "If there's no more ammunition to be gotten, then a $1,500 gun isn't worth anything."

Of 1,905 killings recorded in New York City last year, 1,235 were committed with handguns. About 1 in 10 of the 10,744 handguns recovered by the police were 9-millimeter semiautomatic weapons. Just yesterday, a Brooklyn nursery school teacher found a loaded .25 caliber automatic protruding from the pocket of a 4-year-old boy's jacket.

A large part of Mr. Moynihan's charm is his intellectual curiosity and his reservoir of what is oxymoronically called common sense, which he has sometimes tapped ahead

of his time. "I find myself once again in that pitiable role of the meliorist," he said. "I want to try to cut back on the number of functioning weapons around, not to eliminate them altogether.

"Look at those old movies," he said. "What is the worst thing that can happen to the wagon train? To run out of ammunition!" He proposes to make that national policy. While Congress chews on gun control and other alternatives, he would bite the bullet.

[From the New York Times, Jan. 21, 1991]

END GUN VIOLENCE BY BANNING BULLETS

To the Editor:

To my surprise, none of the six contributors to "Guns, Guns Everywhere" (Op-Ed, Jan. 4) put forth what I think is the most promising solution to the problem of gun-related violence: a ban on bullets.

If the manufacture or sale of the most frequently used bullet calibers were limited or banned, gun-related violence would decrease almost immediately.

This approach has several merits:

(1) It is almost unheard of. Thus, its would-be enemies are unprepared for it. Quick bullet-control legislation might be passed before the gun lobby could respond.

(2) The argument can be made that a bullet ban, unlike a weapons ban, is legal. While the Constitution grants the right to bear arms, it does not necessarily grant the right to bear loaded arms.

(3) The logic behind bullet banning is the same as the logic behind a more popular anticrime movement, the war on drugs. The drug war is waged against cocaine, heroin and marijuana, not against crack pipes, plastic bags and rolling paper. Bullet banning follows this example: people can have as many guns as they want, just so long as they don't put any bullets in them.

By bringing an end to gun-related violence, a bullet ban will prove that guns don't kill people, and people don't kill people; it's bullets that kill people. Though skeptics may argue that this approach will never work, they must admit that at the very least it's worth a shot.

PETER FREED,
Research Associate, National Council on Crime and Delinquency.

SAN FRANCISCO, *January 4, 1991.*

[From the Sarasota Herald-Tribune, Jan. 23, 1991]

TO DEFANG A DEADLY COBRA

TALLAHASSEE.—What'll it be? America's easy access to guns still leads to thousands of tragedies, and that access must be vigorously controlled. Or: no, guns don't kill people; people kill people—to protect potential victims, enforce existing laws.

The country's long dispute over gun control—frustrating, inflamatory, often counter-productive—remains a debate focused on the sale of firearms in a population already saturated with an estimated 200 million guns of all kinds.

Next month, for instance, a computerized system operated by the Florida Department of Law Enforcement will check customer names provided by retail gun dealers against a list of felons. Supposedly, if the customer has a criminal record, a quick match-up is made and legal sale of a gun is prohibited.

FDLE Commissioner Tim Moore says the name check will take only a few minutes, although up to three working days can be taken to establish the customer's status. Three days also is the length of time a voter-approved waiting period will be, once it is enacted by the state legislature.

Regardless, Moore said, a thorough, normal background investigation actually would take a week or two.

The legislature will consider other gun laws, including restrictions on obtaining or possessing assault weapons and keeping guns in vehicles as well as attempts to tighten the state's flabby concealed-weapons law. No doubt there'll be more proposals, most carried over from years past.

So it goes.

All of the efforts to keep guns out of the hands of those who would threaten public safety certainly are admirable, but, to the innovative mind of U.S. Sen. Daniel Patrick Moynihan, they are of small impact. Sheer numbers make it so, he insists.

There must be another way, said Moynihan, D-N.Y., a few days ago, at least a stopgap attempt to reduce handgun violence until a permanent solution is found at the end of a seemingly endless debate. So, he proposed his interim safety measure in the form of the Violent Crime Prevention Act of 1991.

He illustrated the proposal this way, drawing on his days as U.S. ambassador to India:

"Admission to the legendary Indian Civil Service ultimately turned on a grueling oral examination. A favorite question asked the examinee to imagine himself a district officer on a two-day trek from his main base to an outlying village. As his party is preparing to make camp for the night he is struck on the forearm by a Malay King Cobra. What does he do?

"The correct answer is that he dies. The young men who thought of slashing and sucking their wound or sending runners for a doctor, or whatever, were deemed to have an insufficient hold on reality. A man struck on the arm by a Malay King Cobra as dark descends on the Indian jungle does exactly one thing. He dies.

"This is our problem with handgun control. We somehow don't grasp the significance of the fact that guns are out there, in our streets, 70 million of them and two million more each year. There is no getting rid of them. But this conundrum does give us a way out. Supposing the cobra had been defanged? Supposing the supply of bullets were restricted or eliminated?

"There are enough firearms to last well into the 22nd century, but only enough ammunition for those guns to last about four years. Of the 7.5 billion rounds in factory, commercial and household inventory in this country, about two billion are used each year. Were we to ban from today additional rounds from entering the market, existing ammunition supplies would soon run out. And what good is a gun without bullets?

"The exact numbers are sketch because the Bureau of Alcohol, Tobacco and Firearms does not have the authority to track the supply of ammunition in the same way it tracks firearms," explained Moynihan. "But even so, the point is the same: Guns don't kill people, bullets do."

The Violent Crime Prevention Act of 1991 would ban the manufacture, importation and transfer of .25-caliber, .32-caliber and 9-millimeter ammunition. It is that ammunition that is used in Saturday Night Specials and in the assault weapons favored by drug traffickers.

This isn't a new proposal by Senator Moynihan. Congress has ignored it before. But the Los Angeles Police Department effectively slowed firearm activity for several days during December by enforcing a ban on ammunition sales, and the idea gains credibility through continued failure of alternative attempts to control gun violence.

It's not a permanent solution, but a step in the right direction, as Senator Moynihan declared in his recommendation "to defang our cobra."

Ask yourself, as he asked the U.S. Senate: "Is it not more realistic to control ammunition as a means of controlling violent crime than it is to control handguns?"

[From Roll Call, Jan. 31, 1991]

THE BEST WE CAN

To the Editor:

Your fine editorial, "Stop the War" (Roll Call, Jan. 14), notes than Kenneth Goshorn was killed when his car was sprayed with a .32 caliber pistol for no apparent reason. And very properly you go on to suggest it is time the Congress do something about gun control.

May I suggest that there is a parallel approach that would be at least as useful, which is to say controlling ammunition.

Five years ago we enacted legislation banning the manufacture and sale of "copkiller bullets," the first legislation directed to a particular round of ammunition.

Since then I have been trying to ban the manufacture and sale of .25 and .32 caliber bullets, which are the classic caliber of the Saturday Night Special, and also 9-millimeter rounds which are used in assault weapons, the new weapon of choice, as you might say, among drug dealers. (This year the bill is S. 51. The ammunition would still be available to law enforcement agencies and to the military.)

I have a little theme: Guns don't kill people, bullets do. Plain fact, we have a two-century supply of guns—some 70 million handguns—but only about a four-year supply of ammunition, probably even less in the case of 9mm rounds.

An interesting fact is that $30 will get you a three-year license from the Bureau of Alcohol, Tobacco, and Firearms to manufacture as much of the ammunition you want, and with no reporting requirements whatsoever. But think of it, once a 20-round clip is used up, if there is no ammunition available, a $1,500 assault weapon becomes useless.

Would you indulge me in a general observation about Washington? Or rather, I suppose, a political one. I can't get anybody interested in my bill because it only proposes to improve a situation, not finally resolve it.

Licensing handguns has about it the aura of a final solution to a problem. It is not, but that is of no consequence; it sounds as if it is. Simply curtailing ammunition supply seems only remedial and, accordingly, unpersuasive.

We get through life doing the best we can.

Sen. DANIEL PATRICK MOYNIHAN.

[From the New York Post, Jan. 7, 1987]

GUNS DON'T KILL PEOPLE, BULLETS DO

(By Daniel Patrick Moynihan)

I was once ambassador to India, which has nothing to do with this article excepting for a story with a moral that Indians still tell.

Admission to the legendary Indian Civil Service ultimately turned on a grueling oral examination. A favorite question asked the examinee to imagine himself a district officer on a two-day trek from his main base to an outlying village. As his party is preparing to make camp for the night he is struck on the forearm by a Malay king cobra. What does he do?

The correct answer is that he dies. The young men who thought of slashing and

sucking their wound or sending runners for a doctor, or whatever, were deemed to have an insufficient hold on reality. A man struck on the forearm by a Malay king cobra as dark descends on the Indian jungle—dies.

It seems to me this is our problem with handgun control. We somehow don't grasp the significance of the fact that guns are *there*. Sixty million and rising. Roughly one for every three adults in the land. There is no getting rid of them.

The pistol is a simple machine, fully developed before the Civil War with cliploading the only basic variation since. Unless constantly used, or allowed to rust, they last forever.

The armed services are just now phasing out their 1911 .45-caliber sidearm. (I carried one on watch in the Navy some 40 years ago. It had been manufactured at the Springfield Armory in 1915. I expect somewhere some ensign is still carrying it.) A *cheap* handgun, your average concealable Saturday Night Special, won't take heavy use, but otherwise it will function a lot longer than you or me.

It comes to this. We have a two-century supply of handguns. It won't make any difference at all to stop manufacturing them, importing them and selling them. There is no way to gather up those that are out there, and the people who get licenses for them aren't the people we are having trouble with.

The reality principle tells us to think of something else.

Supposing that cobra had been defanged?

Got it? Bullets!

A handgun is of no use without bullets. We have a two-century supply of handguns. *But we have a mere four-year supply of ammunition.*

Some 2 billion handgun cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial or household inventory. A four-year supply.

Ergo? *Control bullets.* Impossible, you say? We just did it. In 1982 the New York Patrolmen's Benevolent Assn. came to me and Rep. Mario Biaggi and asked us to do something to stop the sale (and manufacture and import) of "cop killer" bullets. This round is jacketed with tungsten alloys and other metals and rips through police flak jackets.

It took some time, but the administration helped, and the National Rifle Assn. went along, and on Aug. 28 the President signed Public Law 99-408, the Law Enforcement Officers Protection Act of 1986.

This was the first law in American history to outlaw a particular round of ammunition. Why stop there?

On Oct. 16, the next to last day of the 99th Congress, I introduced S. 2929, the Violent Crime Prevention Act, prohibiting the manufacture or import of .25- or .32-caliber ammunition.

These are murderous rounds; the Saturday Night Special rounds, the cop-killer rounds. (Of handguns fired at New York City police officers, 1975-1985, one quarter were .25- or .32-caliber.) President Reagan survived a .22-caliber wound. President Ford very likely would not have survived the .32-caliber round fired at him. President McKinley did not.

Anyway, the reality principle tells us not to fuss with the .22 pistol. Americans love it for target practice, and you would quickly be in a squabble about .22 rifles, which every other father in the land looks forward to giving to a son. The .45 pistol is a cannon no one can easily conceal and Alaskan guides need. (*Not* to kill grizzlies, but to have one last chance when grizzlies decide to kill them!)

Would this end the problem, the awful problem, of handgun killings? No. It would reduce it. Immediately? No, ammunition has a "shelf life" of seven years or so. But then there are still some armor-piercing rounds out there, and despite the new law, *some* will be fired at police officers before the powder degrades. An end to our troubles?

Of course not. *But* I'll make a bet. This year Detroit set out to have *one* day in which nobody in the city would be murdered by a bullet fired from a handgun. They almost made it. Pass the act and the day will come when they do.

[From the Washington Post, Feb. 1, 1988]

BAN BULLETS: AN IDEA FROM SEN. MOYNIHAN

Two items in The Post of Jan. 24 prompt me to try out an idea with you. It is a strategy for controlling handguns by banning bullets. Guns don't kill people, bullets do.

The editorial "The NRA vs. the Police" states that "police and others on the firing line protecting the public are furious at the NRA's persistent lobbying for 1) armor-piercing 'copkiller' bullets." Actually, almost two years ago, we succeeded in enacting legislation banning the import, manufacture or sale of this ammunition. The proposal came to me from the New York City Police Benevolent Association. I had great help in the Senate from Strom Thurmond and from police associations across the nation.

This was the first law in history to outlaw a particular round of ammunition. One thought led to another. There are 70 million handguns in the country, one for every family if you like. These are simple machines which, given minimum care, last indefinitely. (Forty odd years ago while in the Navy I carried on watch a .45 caliber gun manufactured at the Springfield, Mass. armory in 1912. I don't doubt some ensign is carrying it to this day.) In effect, we have a two-century supply of handguns.

On the other hand, we have a four-year supply of ammunition. I will spare you the numbers: that is what production, inventory and use come to. Why not, then begin to close off the supply of ammunition?

In the last Congress, and again in this one, I introduced a bill to ban the production and sale of .25 and .32 caliber ammunition—ammunition for Saturday night specials, the "snubbies." About one-quarter of the rounds fired at New York City police are of these two calibers.

I cannot doubt the same is true of the many children here in Washington who end up—as Joyce Ladner writes in her moving article in Outlook, "Washington, Save Your Children!"—as "bullet-riddled corpses." Children killing children.

Prof. Ladner proposes a number of measures: "The first is stepping up efforts to take guns away from teenagers." By all means try. But could we not also begin squeezing the "ammo" supply? I am going to introduce further legislation outlawing 9 mm. rounds—ammunition used in Uzis, which are fast becoming the weapon of choice in the drug world.

It won't transform our neighborhoods overnight. But wouldn't it help? Oughtn't we do what we can?

DANIEL PATRICK MOYNIHAN.

WASHINGTON.

Mr. GRAHAM. Mr. President, I would like to say that one of the pleasures of serving in the U.S. Senate is to be a regular member of Senator MOYNIHAN's always interesting, eclectic seminars. I wish to express my personal appreciation for the great contributions he makes to this great body and this Nation.

Mr. MOYNIHAN. I thank the Senator from Florida.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1447, S. 1448, S. 1449, and S. 1450 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. SHELBY). The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent the period for debate only on the bill be extended until 12:30 at which time the majority leader or his designee be recognized and during that 30-minute period following completion of the remarks of the Senator from Florida, the Senator from California be recognized for 10 minutes, and following the completion of his remarks, the Senator from Vermont be recognized for 5 minutes.

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

MFN TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. SEYMOUR. Mr. President, yesterday the House of Representatives passed a resolution that attaches numerous and vague conditions to the renewal of most-favored-nation trading status to the People's Republic of China.

I strongly believe that this approach will cripple the causes of economic and political reform in China and further cripple our economic recovery here at home.

This Senator will, therefore, oppose any similar resolution when it comes before the Senate.

To endanger or deny MFN status to China will deny its most productive market-oriented and democratic forces from moving the PRC out from under the oppressive shadow of communism. This policy will achieve none of the results that its proponents seek, and it will punish all of the people that they hope to reward.

Without a doubt, the actions of the Chinese Communist leadership in recent years have deeply troubled me. The Tiananmen Square massacre of 1989 led to brutal murders, persecutions, and imprisonment. Our horror at this tragedy led us to expose many other unknown sins of the Beijing government. They use forced labor to make many of the agricultural products that China exports to the West. They sell ballistic missile launchers and warheads to gangster nations such as North Korea, Syria, and Libya. They continue to suppress freedom of thought even though they masquerade as the protectors of freedom for the working class.

But none of these sins came to the surface just 2 years ago. China's biggest sin is communism—with all of its ugly deceits and twisted concepts of

collective human life. And the Government of China has been committing this sin for 33 years.

The People's Republic appeared on the original 1951 list of countries to which the United States refused to extend normal trade treatment. The Trade Agreements Extension Act of that year prohibited all Communist states, except Yugoslavia, from receiving MFN status.

What happened in China between 1951 and 1980 when this country did not belong to the MFN club? We saw Mao consolidate his power, purge his opponents, fill his prisons, and crush the Tibetans.

Between 1966 and 1976, we saw Mao launch his cultural revolution, one of the most murderous and culturally destructive campaigns ever conducted by a leader in this century.

In 1978 and 1979, when China still did not have MFN status, we saw a post-Mao leadership slowly re-assessing the disasters of communism and introducing profit incentives to the agricultural and manufacturing sectors.

The point, Mr. President, is that in the case of China, the MFN tool has very little effect on the political mercies of an aging leadership. Without this carrot, they murdered millions and buried the legacy of an ancient and glorious society. With this carrot, they still sent the tanks to Tiananmen Square.

I am not suggesting that we take no action to reduce the Communist government's ability to oppress its own people. On the contrary, I am suggesting that we take every action to build economic institutions and political movements in China to divorce the citizens from their dependence on, and their fear of, the state

MFN status for China has clearly contributed to this goal. It has encouraged entrepreneurs in the special economic zones dotting the Cantonese coast to discover new export markets and learn that prosperity is not an exclusive gift from the government.

It has allowed young farmers in this overwhelmingly rural land—harvesting bumper crops on state-run collectives—to migrate to urban communities where manufacturing jobs and democratic ideas are more common. Indeed, between 1980 and today, the industrial output from Communist-controlled factories dropped from 80 percent to 54 percent.

It has also opened the doors of our cities and universities to thousands of students, tourists, and businessmen who have come to learn how and why American society works.

These people and forces, Mr. President, represent the future of democracy and capitalism in China, and the continued availability of MFN treatment strengthens them and weakens their rulers.

I should also note that important segments of our own economy have benefited from the opening to China. United States exports to the People's Republic totaled approximately $5 billion last year, sustaining more than 100,000 jobs in this country.

Products leading the way to China included commercial aircraft, wheat, transportation equipment, and electronics. For domestic aerospace, agricultural, and high technology firms strapped by recession at home and subsidized industries abroad, emerging markets such as those in China will become more important to their ability to compete.

From the State of California, nearly 550 million dollars' worth of finished goods or production components were marketed in the People's Republic of China. Aircraft manufacturers and machine tool firms had the largest share of this amount.

This represents in my State close to 20,000 jobs.

In addition, between last year and this one, California textile exports to China grew by 340 percent and agricultural exports from the State increased by 73 percent.

But we are left with the question, Mr. President, of what obligations the United States has to punish the Chinese Government for its sins of repression, unfair trading practices, and ballistic missile deals with dictators.

On each of these accounts, the administration has chosen the right penalties for the right crimes.

After the Tiananmen tragedy, the Justice Department took steps to protect the Chinese students living in this country by extending temporary asylum to them. We also stopped supporting multilateral development bank loans to the People's Republic of China, suspended grants from the State Department's trade and development program, and ceased all overseas private investment corporation activities.

To address our growing trade deficit with China, the President recently designated the People's Republic as a priority country under the 1988 trade act. This classification allows the United States to directly retaliate against unfair importation barriers that a foreign government imposes.

To bring a halt to China's renegade arms peddling, the Defense Department terminated our military relationship with the country, denied all import licenses to Beijing's police organizations, and blocked international talks on relaxing the rules controlling what high technology products the Chinese can obtain.

These measures, Mr. President, punish the only criminals that I know of in China who cannot be rehabilitated—the Communist leaders. MFN status harm them in a subtle but profound way by slowly building a wall between their interests and those of their citizens. On one side of that wall, the discriminating consumer, the Shanghai trader, and the enterprising farmer will thrive. On the other side, the political leadership, marching to Mao's tune, will rot.

I am surprised that I have heard little from my colleagues about this process of making a penalty suit the crime when we discuss the MFN issue. For years since the original 1951 law and its famous amendment in 1974, Presidents and legislative leaders from both parties have allowed some of the most repulsive regimes in the world to escape the punishment of MFN denial.

Why did we not deny Iraq this status before last August?

Where were we in denying MFN status to Yugoslavia, Libya, Syria, Zaire, Uganda, Burma, Ethiopia, or the Sudan?

We have not taken away most-favored-nation trading privileges from any of these murderous regimes of either the past or the present.

And in June 1987, the Senate got around to approving the Armstrong resolution taking Romania's MFN status away for 6 months. But some of my colleagues across the aisle who will vote against the President on MFN for China, voted 4 years ago against a 6-month suspension of the same treatment for Romania, a regime that equaled or exceeed the Chinese Government's contempt for the rights of its citizens.

Because of our own past refusals to link MFN status with the human rights performance of so many tyrants across the globe, we lack the evidence to claim that this linkage will change the hearts of the Chinese rulers.

At some point, their hearts will stop beating and a new generation of leaders, Mr. President, who many believe will be more democratic in their philosophy and more humanistic in their policies will replace them.

In the meantime, we should be concerned, Mr. President, that we do all that we can to continue to drive a wedge between the people of China who would like a liberated democratic and free enterprise economy and the Communist leaders who so dominate them.

Mr. President, I had the privilege about 3 weeks ago to be in Orange County, CA, with our President to address a group of some 60,000 Asians. Prior to the President addressing this group, he met, and I was present wtih him, we met a number of Chinese students who were studying in our country at colleges like USC, UCLA, and the University of San Francisco. They were asking, if not begging, the President to ensure that this country does not cut off our own lifeline to their future back home, and they are the future of the People's Republic of China. So let us look to this future as we debate MFN status for China, Mr. President. Its denial would hurt the wrong people at the wrong time in their nation's history. Thank you very much.

The PRESIDING OFFICER. The Senator from Vermont.

LOW-INCOME ENERGY ASSISTANCE

Mr. JEFFORDS. Mr. President, I have with me identical letters addressed to Senators TOM HARKIN and ARLEN SPECTER, the chairman and ranking member, respectively, of the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies. I ask unanimous consent that these letters be printed in the RECORD after my statement.

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

(See exhibit 1.)

Mr. JEFFORDS. Mr. President, the letters ask the subcommittee to increase funding for the Low Income Home Energy Assistance Program, commonly known as LIHEAP, in fiscal year 1992 by $60 million, from $1.61 billion to $1.67 billion. This 4-percent increase is necessary to keep pace with inflation. Fifty-two Senators have signed these letters.

I am concerned that the subcommittee, when it meets today, may approve a substantial reduction—not an increase—in funding for LIHEAP.

I also have a table prepared by the Northeast-Midwest Institute. The table provides information on State-by-State LIHEAP allocations for fiscal years 1985—when Federal funding peaked at $2.1 billion—1991, and 1992. The 1992 column assumes $1 billion in funding, which is the level approved by the House of Representatives last month—a very substantial reduction in funding.

The table contains estimates for the numbers of households served in fiscal years 1989 and 1992. It documents how many households will lose benefits in each State should the House funding level prevail. These estimates are conservative, too.

Mr. President, I ask unanimous consent that the table also be printed in the RECORD following my statement.

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

(See exhibit 2.)

Mr. JEFFORDS. I urge my colleagues to review that table so they can understand why I am before you today.

Mr. President, I do not pretend to speak for any of the other 51 Members who signed the letters, but I would like to make a few personal observations. I have been involved with the LIHEAP program and its struggles for many years.

Thirty years ago, we declared war on poverty. Today, I fear we are about to declare war on the poor. Believe me, there will be casualties.

This morning, the Labor-HHS Appropriations Subcommittee will mark up its fiscal year 1992 funding measure. Full committee markup is scheduled for this afternoon. The subcommittee and the full committee will, apparently, reduce the funding for LIHEAP from $1.61 billion to $1.30 billion. But of that amount—and this is the important thing for Members to realize—$445 million will not be made available until September 30, 1992. That is, after the winter and after next summer.

So, for all intents and purposes, this winter and next summer, the subcommittee proposes to fund LIHEAP at $855 million, almost a 51-percent reduction in real terms, and even lower—and even lower—than the House level.

According to the National Consumer Law Center—let us focus on some important figures here—the average annual income of program beneficiaries is below $6,000 a year. Most of these families have annual residential energy bills over $900. Consequently, they spend between 13 and 23 percent of their gross income on home energy. An earlier report prepared on behalf of the National Association of State Community Service Programs indicated that LIHEAP benefits can boost recipient discretionary income by 60 percent.

Mr. President, I would submit that we cannot balance the budget on the backs of the poor, of the elderly, of the handicapped who are on fixed incomes. LIHEAP beneficiaries are the poorest of the poor in our society. It is unfair and unconscionable for this program to bear the brunt of deficit reduction more than any other program of which I know.

If the committee appropriates just $855 million for LIHEAP next year, over 2 million households will lose their benefits in the midst of an economic downturn that has added 2 million households to the LIHEAP-eligible population.

Last winter, in my State of Vermont, the case load increased 20 percent over the previous season. The State had to close the program nearly a month earlier than usual, and this is at the old funding level. State officials anticipate a 23-percent additional increase in the case load for the next year.

Mr. President, winters can be brutal in my State. Vermont is predominantly a rural State. Many Vermont residents live in homes heated with propane, kerosene, and heating oil. The consequences are severe when people cannot pay their utility bills. People can die of hypothermia. Or they can die because they use unsafe space heaters, kerosene lanterns, and open stoves to heat their homes. The space heaters overload an electric cord. The kerosene lanterns are knocked over. The stoves ignite poorly constructed homes, resulting in deaths.

I might add that next summer, in warm-weather States, frail elderly people may die from heart attacks and strokes caused by heat stress because they don't think they can afford to turn on their air conditioners. We heard testimony to that fact last year in the Labor and Education Committee, when we held a reauthorization hearing on LIHEAP.

As I said, Mr. President, there will be casualties. This ought not to happen.

President John Kennedy remarked that "to govern is to choose." If we choose to eviscerate LIHEAP, we choose poorly and, Mr. President, we govern poorly.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 28, 1991.

Hon. TOM HARKIN,
Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to thank you for your support last year for the Low Income Home Energy Assistance Program (LIHEAP) and to request your continued support this year. Specifically, we urge the Appropriations Subcommittee on Labor, Health & Human Services, Education and Related Agencies to provide $1.67 billion in fiscal year 1992 funds for LIHEAP. This request represents a $60.0 million increase, or just enough to keep pace with inflation. We understand that eleven Appropriations Committee members wrote to you on June 3, 1991 also requesting $1.67 billion.

Federal funding for LIHEAP peaked at $2.10 billion in fiscal year 1985. Since then it has declined by nearly 30 percent in real (inflation-adjusted) dollars as measured by the Consumer Price Index for household fuels and other utilities. As a result of this reduction, nearly one million households have lost benefits. Fewer than six million households currently receive LIHEAP benefits nationwide; 18 million to 25 million households were eligible prior to the economic downturn. Another two million people are newly eligible as a result of this downturn.

According to the National Consumer Law Center, the average annual income of program beneficiaries is below $6,000. Most of these families have annual residential energy bills over $900. Consequently, they spend between 13 and 23 percent of their gross income on home energy. An earlier report prepared on behalf of the National Association of State Community Services Programs indicated that a LIHEAP benefit can boost a recipient's discretionary income by 60 percent.

We appreciate your strong commitment to LIHEAP and your leadership in reversing a downward spiral in funding for the program. We harbor no illusions about the difficult budget choices you and your fellow subcommittee members face. We recognize that the subcommittee will not be able to fund LIHEAP at its fiscal year 1992 authorization level of $2.23 billion. You may have difficulty providing the "current services" level we request but it is essential just to maintain benefits to those currently receiving them.

LIHEAP is the only means of protecting the poor and elderly people on fixed incomes from the sort of home energy price explosions we have witnessed over the past two years. Please do all that you can to maintain this vital safety net.

Sincerely,

Christopher J. Dodd, William S. Cohen, Daniel P. Moynihan, Larry Pressler, Carl Levin, Ted Stevens, Claiborne Pell, John H. Chafee, David Pryor, James M. Jeffords, Donald W. Riegle, Jr., Alfonse M. D'Amato, Alan J. Dixon, Dave Durenberger, Kent Conrad, John McCain, Herb Kohl, Christopher S. Bond, Edward M. Kennedy, John C.

Danforth, Paul D. Wellstone, Richard G. Lugar, Howard M. Metzenbaum, Warren Rudman, Patrick J. Leahy, Conrad Burns, Jeff Bingaman.

Dan Coats, Robert J. Kerrey, Wyche Fowler, Jr., Timothy E. Wirth, Max Baucus, Harry Reid, Harris Wofford, Richard C. Shelby, Brock Adams, Thomas A. Daschle, Joseph I. Lieberman, Bill Bradley, Paul S. Sarbanes, Frank R. Lautenberg, Jim Sasser, John D. Rockefeller IV, Albert Gore, Jr., Charles S. Robb, John F. Kerry, Paul Simon, John Glenn, Robert W. Kasten, Jr., George J. Mitchell, Quentin N. Burdick, Wendell H. Ford.

U.S. SENATE,
Washington, DC, June 28, 1991.

Hon. ARLEN SPECTER,
Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: We write to thank you for your support last year for the Low Income Home Energy Assistance Program (LIHEAP) and to request your continued support this year. Specifically, we urge the Appropriations Subcommittee on Labor, Health & Human Services, Education and Related Agencies to provide $1.67 billion in fiscal year 1992 funds for LIHEAP. This request represents a $60.0 million increase, or just enough to keep pace with inflation. We understand that eleven Appropriations Committee members wrote to you on June 3, 1991 also requesting $1.67 billion.

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Christopher J. Dodd, William S. Cohen, Daniel P. Moynihan, Larry Pressler, Carl Levin, Ted Stevens, Claiborne Pell, John H. Chafee, David Pryor, James M. Jeffords, Donald W. Riegle, Jr., Alfonse M. D'Amato, Alan J. Dixon, Dave Durenberger, Kent Conrad, John McCain, Herb Kohl, Christopher S. Bond, Edward M. Kennedy, John C. Danforth, Paul D. Wellstone, Richard G. Lugar, Howard M. Metzenbaum, Warren Rudman, Patrick J. Leahy, Conrad Burns, Jeff Bingaman.

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EXHIBIT 2

A COMPARISON OF LIHEAP ALLOCATIONS AND HOUSEHOLDS SERVED: FISCAL 1985–92

State or region	Fiscal 1985 LIHEAP allocations [1]	Fiscal 1991 LIHEAP allocations [1]	Proposed fiscal 1992 allocations [2]	Change fiscal 1991 to fiscal 1992 [3]	Households served in fiscal 1989 [4]	Estimated households served in fiscal 1991 [5]	Change from fiscal 1989 to fiscal 1991 [6]
Alabama	18,312,310	15,856,352	8,600,450	−7,255,902	66,991	45,204	−21,786
Alaska	11,689,158	9,594,072	5,489,860	−4,104,212	8,906	6,010	−2,896
Arizona	9,648,195	6,200,052	4,159,280	−2,040,772	34,845	23,513	−11,332
Arkansas	13,973,158	11,068,912	5,562,550	−4,506,362	65,215	44,006	−21,209
California	98,219,787	68,764,442	46,138,910	−22,625,532	492,838	332,559	−160,279
Colorado	33,298,847	23,418,846	16,087,200	−7,331,646	63,025	42,529	−20,497
Connecticut	43,439,520	35,540,698	20,986,320	−14,554,378	75,673	51,063	−24,610
Delaware	5,931,025	4,599,538	2,785,530	−1,814,008	11,509	7,766	−3,743
District of Columbia	6,939,598	6,139,839	3,259,210	−2,880,629	20,767	14,013	−6,754
Florida	28,975,542	21,730,542	13,608,480	−8,122,062	183,909	124,099	−59,810
Georgia	22,909,609	17,438,800	10,759,590	−6,679,210	92,242	62,244	−29,999
Hawaii	2,242,836	1,530,666	1,083,550	−447,116	5,919	3,994	−1,925
Idaho	13,098,768	9,492,966	6,275,080	−3,217,886	34,592	23,342	−11,250
Illinois	123,679,361	85,711,209	58,086,510	−27,624,699	282,172	190,406	−91,767
Indiana	55,371,045	41,068,788	29,299,940	−14,768,848	140,135	94,561	−45,574
Iowa	38,581,057	28,719,086	18,639,120	−10,079,966	93,185	62,879	−30,305
Kansas	18,226,012	12,901,387	8,559,920	−4,341,467	70,783	47,763	−23,020
Kentucky	29,141,451	22,536,557	13,686,400	−8,850,157	76,628	51,708	−24,921
Louisiana	18,721,526	13,202,800	8,792,640	−4,410,160	104,229	70,332	−33,897
Maine	28,141,884	23,549,641	13,595,790	−9,953,851	54,727	36,929	−17,798
Maryland	34,214,462	29,360,614	16,068,960	−13,291,654	83,113	56,084	−27,030
Massachusetts	86,893,426	69,363,990	41,979,590	−27,384,400	125,668	84,799	−40,869
Michigan	114,150,782	86,099,210	55,148,050	−30,951,160	290,099	195,754	−94,345
Minnesota	82,256,230	62,063,452	39,731,050	−22,332,402	112,628	76,000	−36,628
Mississippi	15,682,911	12,390,734	7,373,550	−5,017,184	61,893	41,765	−20,129
Missouri	48,025,791	35,779,317	23,202,020	−12,577,297	123,343	83,230	−40,113
Montana	15,235,000	10,938,261	7,360,270	−3,577,991	21,349	14,406	−6,943
Nebraska	19,079,813	13,851,143	9,217,760	−4,633,383	40,990	27,660	−13,331
Nevada	4,159,423	3,213,962	1,953,491	−1,260,471	17,087	11,530	−5,557
New Hampshire	16,447,153	13,648,094	7,945,880	−5,702,214	22,184	14,969	−7,214
New Jersey	82,979,209	66,929,211	38,971,520	−27,957,691	152,749	103,073	−49,676
New Mexico	10,108,227	8,122,660	5,207,130	−2,915,530	42,032	28,363	−13,669
New York	263,390,085	214,983,027	127,247,910	−87,735,117	788,105	531,801	−256,304
North Carolina	40,378,234	35,611,552	18,963,800	−16,647,752	178,347	120,346	−58,001
North Dakota	16,689,945	12,502,501	7,995,480	−4,507,021	18,152	12,249	−5,903
Ohio	109,412,876	78,346,912	51,386,200	−26,978,712	405,667	273,738	−131,929
Oklahoma	16,832,774	12,249,509	7,905,580	−4,343,929	90,868	61,316	−29,552
Oregon	25,808,013	19,297,758	12,468,260	−6,829,498	62,074	41,887	−20,187
Pennsylvania	141,479,321	107,475,436	68,350,900	−39,124,536	339,740	229,251	−110,489
Rhode Island	14,303,153	11,571,838	6,910,080	−4,661,758	24,819	16,747	−8,072
South Carolina	14,543,706	12,450,694	6,830,510	−5,620,184	87,438	59,002	−28,436
South Dakota	13,301,226	10,690,959	6,493,730	−4,197,229	21,114	14,248	−6,867
Tennessee	29,519,666	21,651,512	13,864,030	−7,787,482	63,120	42,592	−20,527
Texas	48,205,634	36,455,109	22,639,970	−13,815,139	371,631	250,771	−120,860
Utah	15,372,326	11,061,545	7,475,760	−3,585,785	40,672	27,445	−13,227
Vermont	12,327,727	9,813,401	5,955,720	−3,857,681	16,397	11,064	−5,333
Virginia	41,677,041	36,050,642	19,573,790	−16,476,852	117,663	79,397	−38,266
Washington	42,450,627	31,495,007	20,508,570	−10,986,437	73,001	49,260	−23,741
West Virginia	19,285,111	13,675,783	9,057,330	−4,618,453	69,655	47,002	−22,653
Wisconsin	74,027,070	56,987,253	35,763,650	−21,223,603	161,684	109,102	−52,582
Wyoming	6,195,470	4,605,014	2,993,130	−1,611,884	11,275	7,608	−3,667
Total	2,094,973,121	1,607,819,293	1,000,000,000	−607,819,293	6,012,848	4,057,376	−1,955,473

[1] Includes both contingency funds and tribal allocations.
[2] One billion dollar base funding level assumed; each state's assumed share based on its share of the fiscal 1991 base grant.
[3] Difference between fiscal 1991 LIHEAP allocations and proposed fiscal 1992 LIHEAP allocations.

[4] Sum of households given heating assistance, cooling assistance and one-third of those receiving winter or year-round crisis assistance.
[5] Determined from the product of the number of people served in fiscal 1989 and the ratio of the assumed $1 billion base funding to fiscal 1989 funding to the programs mentioned in footnote 4.
[6] Difference between estimated people served in 1992 and those served in 1989.
Source: Based on U.S. Department of Health & Human Services *Annual Report*, Fiscal 1985–92 (Washington, D.C., 1985–91).

Mr. JEFFORDS. 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.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the bill be extended until 1 p.m. and that at 1 p.m. the majority leader or his designee be recognized.

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

Mr. MITCHELL. 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. HELMS. 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 North Carolina is recognized.

Mr. HELMS. Mr. President, as I understand it, the clock is running on, what, the 10 hours?

The PRESIDING OFFICER. The time remaining under cloture is running.

Mr. HELMS. How much time remains on the 10 hours that was agreed to last night.

The PRESIDING OFFICER. There remains 7 hours, 50 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I am not going through the litany I went through last night about the two amendments that I qualified more than 1 hour before the cloture vote yesterday, except to say that both amendments are amendments that some Senators do not want to vote on. My friends on this side of the aisle and my friends on the other side of the aisle are saying, look, if Helms offers these amendments then so and so is going to offer an amendment. Well, that is the way the Senate operates. But the two amendments I have, Mr. President, are of vital interest, I daresay, to 95 percent of the American people. Obviously, there is an effort to keep me from getting a vote.

Yesterday, I was led to believe that my two amendments would be in the unanimous-consent agreement. I was told at the last minute that, oh, no, they cannot be. So then cloture was voted, and the mechanics of the Senate are such that even though an amendment is directly related to the crime bill, under the Senate rules, it is not germane. I qualified the amendment, but it is not germane.

This is the same thing, in general, that happened when I offered a quota amendment last week. Nobody wanted to vote on it. As soon as I offered it—I offered it as a second-degree amendment to a Symms first-degree amendment—immediately the Senate shut down, went into a quorum call, and something like 10 hours elapsed. Then they muttered, well, Helms is holding up the bill. I was not holding it up I was ready to vote.

So, this little stage play that goes on ought to be apparent to the American people, and to the length of my capability, I am going to make it apparent. My first amendment involves doctors, dentists, and other health-care providers who know that they have AIDS and, nonetheless, go ahead and treat patients without telling the patient they have AIDS. If that is not a crime, I do not know the definition of a crime.

Now I am in a fix. I have to use a little bit of parliamentary procedure to get any sort of vote on my amendment, and I am going to get a vote on it. I said that last night, and I say it now. I do not like to appeal the ruling of the Chair, particularly when I think the Chair is right under the Senate rules; but I am going to do it if I have to, to get a vote on this, because then the American people will know that the only vote that was possible under the circumstances was on the appeal of the ruling of the Chair.

And Senators will, whether they like it or not, be expressing their willingness to support doing something about this dastardly business of people in the health-care business, such as a few doctors, dentists, health-care providers, putting hundreds upon hundreds of people at risk.

I talked about Miss Bergalis down in Florida. She got AIDS from her dentist, and she is dying. She is going to die any day now—a lovely, lovely young women. If this Senate is unwilling to take a position on that, we ought to pack up and go home.

My other amendment deals with smut peddlers, particularly, those repulsive people who engage in child pornography. As I explained last night, the Sentencing Commission has decided to reduce the sentences for the receipt and transportation of child pornography. What on Earth has happened to the mentality of the Sentencing Commission? If the Senate does not speak out on this question, we will be derelict in our duty.

These are smut peddlers—I cannot describe them in anyway close in polite society. The Sentencing Commission has reduced the sentences of people convicted of this crime so low that smut peddlers and pedophiles will receive, at most, probation. What goes on? This was certainly not the intent of Congress when it passed the child pornography bill in 1988 and 1990. If we are unwilling to do anything about that, why do we present ourselves as Senators interested in the welfare of the American people?

That amendment—the child pornography amendment—instructs the Sentencing Commission to increase the penalty for child porn offenses, so that the offenders will serve at least sometime in jail.

As far as I am concerned you can throw them in jail and throw away the key. As I say last night, child pornography is directly, clearly, demonstrably, connected to child molestation. I do not know whether other Senators are appalled at the increase in the incidences of this as I am. But being the grandfather of seven, it is on my mind. I do not know what I would do if 7-year-old Katy Stewart in Raleigh, NC, would be victimized. I am not sure I could restrain myself. I think you will find that 95 percent of the American people feel exactly the same way.

If we truly want to protect the children, we must at a minimum make sure that pedophiles go to jail. The Sentencing Commission is absolutely wrong in its action, and the Senate ought to say so.

I said last night that newspapers, other media, are filled with accounts of happenings in all parts of the country, including my own State, articles describing in graphic detail, most of the time, the physical and emotional suffering of hundreds of Americans who have been unknowingly exposed to AIDS by doctors, dentists, and health care workers who are carriers of this deadly virus, and they know it.

I talked last night about the case of Kimberly Bergalis. If you had not read about this young woman I hope you will. She is 23 years old. She lives in Florida, but she will not be living in Florida very long. She is not going to be living anywhere, because she is dying. She is in the last stages of AIDS-related tuberculosis, a condition which is slowly destroying her brain and body, Newsweek stated in its most recent edition, sometime in the next few days.

Kimberly Bergalis will probably become the first American to die from AIDS after being infected by her dentist. He knew he had it, and he did not tell her nor did he tell any of his other patients.

The Senate may not accept my amendments, either one of them. But I

am going to do the best I can under the Senate rules to get a vote on them and do the best I can to get them approved. But for technical reasons if they are not adopted, that will not be my fault.

You say, "Helms, what is the alternative?" The alternative is simply to ask unanimous consent that it be in order for Senator HELMS' two amendments to be considered by the Senate and voted on. That is all you need. I wish to see somebody object to that.

I am going to call up one of the amendments and see what happens. But I predict that somewhere along the line, probably fairly early, there will be a point of order registered and the amendment will be declared by the Chair to be nongermane. And the Chair will be right, because technically speaking it is nongermane, but it is absolutely germane in context to this crime bill, because, as I said, if it is not a crime for a doctor or a dentist, or any other health care worker, knowing that he or she has AIDS for them to fail to notify their patients that they have AIDS, if it is not a crime, then I do not know how to define a crime. And the same thing is true about these pedophiles who are producing child pornography.

That is about it. Mr. President, let me get the number of the amendment and we will see how it comes out. I say to all Senators that all it will take is unanimous consent that the amendment be considered germane. As a matter of fact I am going to test it.

Mr. President, I ask unanimous consent that the two pending Helms amendments be considered germane for purposes of consideration by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I am going to call up amendment No. 701.

Mr. MITCHELL. Mr. President, it is my understanding that the period until 1 o'clock under a previous order was for debate only on the bill.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. So that any request to make an amendment germane is inconsistent with the previous unanimous-consent agreement and therefore out of order; is that correct?

Mr. HELMS. Mr. President, if the Senator will yield——

The PRESIDING OFFICER. It may be inconsistent with the intention of the order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, let me ask the Chair a question. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is S. 1241.

Mr. HELMS. Which is?

The PRESIDING OFFICER. Which is the crime bill.

Mr. HELMS. The crime bill. Fine. Is the Chair saying to the Senate that it is out of order to ask unanimous consent that any amendments be considered germane; is that what the Chair is saying? I want to know the precedent on that.

The PRESIDING OFFICER. The Senator can make a unanimous-consent request, which he has done.

Mr. HELMS. Right. I made it. And the distinguished majority leader objected. And then he said until 1 o'clock discussion only, correct?

The PRESIDING OFFICER. Under a previous order debate only until 1 o'clock, that was the agreement.

Mr. HELMS. I was not debating. I was simply asking a unanimous consent, and the Chair says that that is out of order?

The PRESIDING OFFICER. The Chair did not say that. The Chair said there was the unanimous-consent request which the Senator from North Carolina made, but there was an objection to the unanimous-consent request.

Mr. HELMS. I understand. Very well. That is fine. This is another example.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, under the previous unanimous consent agreement, I was granted authority to proceed to H.R. 2622, the Treasury appropriations bill, following consultation with the Republican leader. I now exercise my right to call up that bill.

The PRESIDING OFFICER. The leader has that authority. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes,

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; *not less than $2,522,000 and 40 full-time equivalent positions for the Office of Foreign Assets Control;* not to exceed $2,330,000, to remain available until expended, for systems modernization requirements; not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; **[$67,500,000]** *$68,975,000.*

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; not to exceed $73,000 for official reception and representation expenses; not to exceed $2,487,000, to remain available until expended, for systems modernization requirements; **[$32,794,000]** *$33,855,000.*

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $2,000,000 for official travel expenses; not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; **[$22,710,000]** *$24,835,000.*

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; not to exceed $3,000 for official reception and representation expenses; $18,055,000, of which not to exceed $945,000 shall remain available until expended, for development of FinCEN's intelligence information systems.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifty-two for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109:

Provided, That the Center is authorized to accept gifts: *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority; [$39,245,000] *$41,245,000*.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, [$5,359,000] *$16,534,000*, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, [$189,195,000] *$228,968,000*, of which not to exceed [$10,794,000] *$10,294,000*, shall remain available until expended for systems modernization initiatives[: *Provided*, That notwithstanding any other provision of law, hereafter the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in processing Social Security Trust Funds benefit payments, including but not limited to, payment preparation, postage, and account reconciliation].

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; [$316,796,000] *$341,040,000*, of which [$15,000,000] *$22,000,000* shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1992, and, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); *of which $650,000 shall be available solely for improvement of information retrieval systems at the National Firearms Tracing Center; and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms; and the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms*: *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further*, That this provision shall not preclude ATF from assisting the International Civil Aviation Organization in the development of a detection agent for explosives or from enforcing any legislation implementing the Convention on the Marking of Plastic and Sheet Explosives for the Purpose of Detection: *Provided further*, That funds made available under this Act shall be used to achieve a minimum level of [4,073] *4,119* full-time equivalent positions for fiscal year 1992, of which no fewer than [1,037] *1,137* full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; [funds for additional positions for the San Francisco, California, the Baltimore, Maryland, and Port Huron, Michigan Customs Districts,] and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; [$1,226,514,000] *$1,270,005,000*, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed $4,000,000, to remain available until expended, for research, and not to exceed $3,500,000, to remain available until expended, for renovation and expansion of the Canine Enforcement Training Center: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or [his] *the Commissioner's* designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service[: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program]: *Provided further, That the United States Customs Service shall hire and maintain an average of not less than 17,411 full-time equivalent positions in fiscal year 1992, of which a minimum level of 960 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service, and of which a minimum level of 10,480 full-time equivalent positions shall be allocated to commercial operations activities: Provided further*, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1992: *Provided further*, That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

[OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM]

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of *marine vessels*, aircraft, and other related equipment of the Air [Program] *and Marine Programs*; [$109,432,000] *$176,932,000*, to remain available until expended: *Provided*, That no aircraft or other related equipment shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1992.

CUSTOMS AIR INTERDICTION FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For acquisition of necessary additional real property, facilities construction, improvements, and related expenses of the United States Customs Service Air Interdiction Program, $26,600,000, to remain available until expended.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $15,000,000, as authorized by Public Law 100-690, as amended by Public Laws 101-382 and 101-508; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,981,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $53,806,000, including amounts for purchase and maintenance of uniforms not to exceed $285 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties; and, of which, $1,335,000 shall remain available until expended for expansion and improvements.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; [$192,270,000] *$185,659,000*.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; executive direction, management services, and internal audit and security; including purchase (not to exceed 125 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$144,503,000] *$141,653,000*, of which not to exceed $25,000 for official reception and representation expenses; and of which not to exceed $500,000 shall remain available until expended for research.

PROCESSING TAX RETURNS AND ASSISTANCE

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; statistics of income; providing assistance to taxpayers; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,661,298,000, of which $3,000,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; the purchase (not to exceed 451, for replacement only, for police-type use), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$3,606,124,000] *$3,582,485,000, of which not less than $292,248,000 and 4,293 full-time equivalent positions shall be available for the Tax Fraud Investigations during fiscal year 1992: Provided, That such sums and positions for the Tax Fraud Investigations shall be in addition to such sums and positions funded by transfer from the Special Forfeiture Fund of the Office of National Drug Control Policy*[: *Provided*, That additional amounts above fiscal year 1991 levels for international tax enforcement shall be used for the establishment and operation of a task force comprised of senior Internal Revenue Service Attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in noncompliance with the Internal Revenue Code]: *Provided further*, That additional amounts above fiscal year 1991 levels for the information reporting program shall be used instead for the examination of the tax returns of high-income and high-asset taxpayers.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: returns processing and services; compliance and enforcement; program support; and tax systems modernization; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,294,713,000, of which not less than [$492,000,000] *$427,323,000* shall remain available until expended for tax systems modernization, and of which not to exceed $60,000,000 shall remain available until expended for other systems development projects: *Provided, That of the $427,323,000 provided for tax systems modernization up to $15,000,000 may be available until expended for the establishment of a federally funded research and development center and may be utilized to conduct and evaluate market surveys, develop and evaluate requests for proposals, and assist with systems engineering, technical evaluations, and independent technical reviews in conjunction with tax systems modernization.*

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation *upon advance approval of the House and Senate Committees on Appropriations.*

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; *training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: Provided, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations;* not to exceed $12,500 for official reception and representation expenses; *not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations, in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year;* $475,423,000, *of which $2,500,000 shall remain available until expended for renovations at the temporary official residence of the Vice President and $1,600,000 to remain available until expended for renovations of the New York Field Office; and of which not to exceed $300,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States and $70,000 at the airport facility used for travel en route to or from such property under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note).*

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

[SEC. 101. Of the funds appropriated in this or any other Act to the Internal Revenue Service, amounts attributable to efficiency savings for fiscal year 1992 as estimated by the Commissioner shall be withheld from obligation unless the estimated savings are not achieved: *Provided*, That 50 per centum of the actual efficiency savings shall lapse or be deposited into miscellaneous receipts of the Treasury with the exception of amounts in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law: *Provided further*, That notwithstanding any fiscal year limitations on the availability of appropriations, the remainder of the actual efficiency savings shall be made available in fiscal year 1993 for cash awards to IRS employees, as authorized by sections 4501–4505 of title 5, United States Code, and for future efficiency improvements to carry out those purposes authorized by law: *Provided further*, That none of the funds shall be made available for the program without the advance approval of the House and Senate Appropriations Committees.]

SEC. 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be used by the Secretary of the Treasury to direct bill a Treasury bureau for penalty mail costs incurred by another Treasury bureau.

SEC. 104. None of the funds made available to the Department of the Treasury by this or any other Act, shall be used to impose or assess any tax due under subchapter D of chapter 31 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum.

SEC. 105. None of the funds provided by this or any other Act shall be used to install or operate new voice messaging systems within the Department of the Treasury or any of its bureaus in fiscal year 1992.

This title may be cited as the "Treasury Department Appropriations Act, 1992".

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; [$649,301,000] *$383,000,000*: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individ-

ual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1992.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $40,575,000.

This title may be cited as the "Postal Service Appropriations Act, 1992".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: Provided further, That none of the funds made available for official expenses shall be considered as taxable to the President.*

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; [$23,010,000] *$24,510,000* including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $34,885,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $8,362,000, *of which $1,100,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.*

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, [maintenance, repair and alteration] *operation*, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, *to be accounted for solely on his certificate;* $324,000: *Provided, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.*

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,932,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $3,345,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,701,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98–373; $235,000: *Provided, That such funds shall only be used in support of work undertaken in collaboration and in close cooperation with the National Security Council, as authorized by Public Law 98–373: Provided further, That in the performance of this requirement, the Council shall carry out only those responsibilities and authorities which are consistent with the National Materials and Minerals Policy, Research and Development Act of 1980, Public Law 96–479: Provided further, That staff and resources of Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy shall be made available to the Council on a nonreimbursable basis.*

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $6,145,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; [$50,470,000] *$53,434,000, of which not to exceed $5,000,000, shall be available to carry out the provisions of 44 U.S.C. chapter 35: Provided, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: Provided further, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): Provided further, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: Provided further, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: Provided further, That none of the funds made available by this or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcohol beverage and tobacco industries below fiscal year 1985 levels: Provided further, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.*

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $3,058,000.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; [$69,122,000] *$113,018,750*, [of which $1,000,000 shall support the Counternarcotics Technology Assessment Center] *of which $500,000 shall be available for salaries and expenses of the Counter-Drug Technology Assessment Center; of which $10,000,000 shall be available to the Counter-Drug Technology Assessment Center for counternarcotics research and development activities* and shall be available for transfer to other Federal Agencies and Departments and shall be available until expended; and, of which [$50,000,000] *$85,000,000* shall be available for drug control activities which are consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas [and shall be transferred to Federal agencies and departments for implementing approved strategies and shall be obligated by the end of fiscal year 1992]: *Provided, That of the $85,000,000 made available, up to $50,000,000 shall be transferred to Federal agencies and departments within 90 days of enactment of this Act for implementing the approved strategy for each high intensity drug trafficking area and shall be obligated by the end of fiscal year 1992: Provided further, That not less than $35,000,000 shall be transferred to the Department of Justice and the Department of the Treasury within 90 days of enactment of this Act for disbursement to State and local drug control entities for drug control activities which are consistent with the approved strategy for each High Intensity Drug Trafficking Area: Provided further, That in the case of the Southwest Border High Intensity Drug Trafficking Area, such funds shall be available for drug control activities which are consistent with the approved strategy and only for those activities approved by the Joint Command Group of Operation Alliance and the Assistant Secretary for Enforcement of the Department of the Treasury: Provided further, That notwithstanding any other provision of law, the Department of the Treasury, is authorized to transfer funds to other Federal, State, and local drug control agencies: Provided further, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.*

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100-690, [$77,000,000] *$67,000,000* to be derived from deposits in the Special Forfeiture Fund; [of which $10,000,000 shall be transferred to the Bureau of Prisons for prison construction; and of which $31,000,000 shall be transferred to the Alcohol, Drug Abuse, and Mental Health Administration for drug treatment capacity expansion; and of which $21,000,000 shall be transferred to the United States Customs Service (Salaries and expenses) for drug related activities, and of which $15,000,000 shall be transferred to the Bureau of Alcohol, Tobacco, and Firearms (Salaries and expenses), for drug related expenses] *of which $10,000,000 shall be transferred to the Alcohol, Drug Abuse, and Mental Health Administration's Office of Substance Abuse Prevention for implementation of not to exceed ten demonstration projects to permit substance-abusing women to reside with their children in comprehensive community prevention and treatment facilities; of which $10,000,000 shall be transferred to the Immigration and Naturalization Service for the hiring, equipping, and training of not less than an additional 100 full-time equivalent Border Patrol agents to be designated to sectors on the United States-Mexico border: Provided, That such positions shall be in addition to the full-time equivalent Border Patrol positions funded in the Commerce, State and Justice Departments Appropriations Act, 1992; of which $5,000,000 shall be transferred to the United States Secret Service for West African counter-drug task forces; of which $28,000,000 shall be transferred to Internal Revenue Service, tax law enforcement, for the hiring, equipping, and training of an additional 200 full-time equivalent special agents and 100 full-time equivalent support and administrative positions for drug-related investigations in designated High Intensity Drug Trafficking Areas; and of which $14,000,000 shall be transferred to the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy for counternarcotics research and development activities.*

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1992".

TITLE IV

INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $2,227,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,330,000, *and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.*

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28; [$1,293,000] *$1,446,000.*

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $18,808,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of Federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of Federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of [$4,131,346,000] *$4,027,836,276* of which (1) not to exceed [$371,416,000] *$385,104,276* shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

[California:

[Menlo Park, United States Geological Survey Office Laboratory Buildings, escalation, $11,047,000

[Monterey, Federal Building and U.S. Courthouse, $1,900,000

[Orange County, Courthouse, $250,000

[Georgia:

[Atlanta, Center for Disease Control, $5,000,000

[Florida:

[Fort Myers, Federal Building and U.S. Courthouse, $977,000

[Tallahassee, U.S. Courthouse Annex, $3,764,000

[Indiana:

[Hammond, Courthouse and Federal Building, $5,000,000

[Maryland:

[Prince George's County, U.S. Courthouse, $10,747,000

[Massachusetts:

[Boston, Thomas P. O'Neill Federal Building, claim, $3,100,000

[Minnesota:

[Minneapolis, Federal Building and U.S. Courthouse, $19,000,000

[Missouri:

[St. Louis, Federal Building and U.S. Courthouse, $30,000,000

[Nevada:

[Reno, C. Clifton Young Federal Building, United States Courthouse Annex, $307,000

[North Carolina:

[Asheville, Courthouse and Federal Building (construction), $25,300,000

[Tennessee:

[Knoxville, Courthouse, $2,500,000

[United States Virgin Islands:

[Charlotte Amalie, Saint Thomas, U.S. Courthouse Annex, $8,524,000

[Nonprospectus Construction Projects, $5,000,000]

California:

Menlo Park, United States Geological Survey, Office Laboratory Buildings, escalation, $11,047,000

Florida:

Fort Myers, Federal Building and United States Courthouse, $977,000

Tallahassee, U.S. Courthouse Annex, $3,764,000

Georgia:

Albany, U.S. Courthouse, design, $921,000

Augusta, U.S. Courthouse, $3,500,000

Kansas:

Wichita, U.S. Courthouse, $9,968,400

Maine:

Portland, Edward T. Gignoux U.S. Courthouse, $10,575,000

Maryland:

Food and Drug Administration, consolidation, site acquisition, planning and design, $200,000,000

Massachusetts:

Boston, Thomas P. O'Neill Federal Building, claim, $3,100,000

Missouri:

St. Louis, Federal Building and U.S. Courthouse, $30,000,000

Nevada:

Reno, C. Clifton Young Federal Building U.S. Courthouse Annex, design and site acquisition, $6,321,000

North Carolina:

Asheville, Grove Arcade Federal Building, $29,790,876

Tennessee:

Knoxville, U.S. Courthouse—Post Office, $36,616,000

United States Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse Annex, $8,524,000

West Virginia:

Beckley, Federal Building and U.S. Courthouse, $25,000,000

Nonprospectus Construction Projects, $5,000,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: Provided further, That all funds for direct construction projects shall expire on September 30, 1993, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: Provided further, That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects[: Provided further, That to the extent that savings can be effected in other

Federal Buildings Fund activities, the GSA shall seek reprogramming of up to $16,200,000 to supplement funds previously authorized and appropriated for the NOAA laboratory, Boulder, Colorado, subject to the approval of the House and Senate Committees on Appropriations according to existing reprogramming procedures]*: Provided further, That the amount available under this heading for Department of Transportation, Headquarters, site in Public Law 101-509, dated November 5, 1990 is hereby deferred and shall be available for obligation on October 1, 1992 and all contingencies and constraints on the use of such funds in the original language are continued herewith; (2) not to exceed $569,251,000 which shall remain available until expended, for repairs and alterations: Provided further, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:*

Repairs and Alterations:

California:

Pasadena, Court of Appeals and Federal Building, $9,218,000

Sacramento, Federal Building, 801 I Street, $9,529,000

Santa Rosa, John F. Shaw Federal Building, $1,583,000

Connecticut:

Hartford, William R. Cotter Federal Building, $3,814,000

District of Columbia:

Federal Building 10A, $16,527,000

Herbert Clark Hoover Department of Commerce Building, $3,857,000

Housing and Urban Development Building, $5,365,000

Justice Building, $7,495,000

New Executive Office Building, $8,083,000

Old Executive Office Building, $19,000,000

Wilbur J. Cohen Federal Building, $15,000,000

Illinois:

Chicago, John C. Kluczynski Federal Building, $20,335,000

Kentucky:

Louisville, Federal Building, $15,470,000

Maryland:

Baltimore, Edward A. Garmatz Federal Building U.S. Courthouse, $6,311,000

Massachusetts:

Boston, John Fitzgerald Kennedy Federal Building and Government Center (phase 2), $36,800,000

Worcester, Harold D. Donahue Federal Building and United States Courthouse, [$14,000,000] *$10,331,000*

Missouri:

Kansas City, Federal Office Building, $5,256,000

Montana:

Billings, Federal Building U.S. Courthouse, $1,919,000

New Mexico:

Albuquerque, Dennis Chavez Federal Building and U.S. Courthouse, $3,846,000

New York:

Brooklyn, Emanuel Celler Federal Building and U.S. Courthouse (phase 1), $8,729,000

Buffalo, Michael J. Dillon Memorial United States Courthouse, $5,962,000

New York, Alexander Hamilton Custom House (phase 1), $20,273,000

New York, Jacob K. Javits Federal Building, $11,955,000

Ohio:

Cincinnati, John Weld Peck Federal Building, $2,537,000

Columbus, Federal Building and U.S. Courthouse, $3,348,000

Pennsylvania:

Philadelphia, Robert N.C. Nix, Sr., Federal Building and United States Post Office, $10,000,000

Scranton, Federal Building and U.S. Courthouse, $2,600,000

Texas:

Austin, IRS, Department of Veterans Affairs, Treasury Complex, $11,366,000

Galveston, Post Office and U.S. Courthouse, $3,310,000

Houston, Bob Casey Federal Building and U.S. Courthouse, $7,222,000

San Antonio, Federal Building, $4,084,000

Utah:

Salt Lake City, Frank E. Moss U.S. Courthouse, $4,872,000

Salt Lake City, Wallace F. Bennett Federal Building, $3,254,000

Minor Repairs and Alterations, [$266,331,000] *$270,000,000: Provided, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: Provided further, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1993, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date;* [(1)] *(3)* not to exceed $144,587,000 for installment acquisition payments including payments on purchase contracts; [(2)] *(4)* not to exceed [$1,655,900,000] *$1,568,900,000* for rental of space; [(3)] *(5)* not to exceed $1,107,372,000 for real property operations [of which $7,000,000 shall be available for the relocation of the National Science Foundation headquarters]; [(4)] *(6)* not to exceed [$139,748,000] *$137,748,000* for program direction and centralized services; and [(5)] *(7)* not to exceed [$143,072,000] *$114,874,000* for design and construction services which shall remain available until expended*: Provided further, That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: Provided further, That none of the funds available to the General Services Administration, except for the Albany, Georgia U.S. Courthouse; the Augusta, Georgia U.S. Courthouse; the Wichita, Kansas U.S. Courthouse; the Portland, Maine Edward T. Gignoux U.S. Courthouse; the Maryland, Food and Drug Administration consolidation; the St. Louis, Missouri, Federal Building and U.S. Courthouse; the Reno, Nevada C. Clifton Young Federal Building and U.S. Courthouse Annex; the Asheville, North Carolina Grove Arcade Federal Building; the Knoxville, Tennessee U.S. Courthouse—Post Office; the Beckley, West Virginia, U.S. Courthouse and Federal Building, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: Provided further, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: Provided further, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections*[: *Provided,*]*: Provided further,* That revenues and collections *and any other sums* accruing to this Fund during fiscal year 1992 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of [$4,131,346,000] *$4,027,836,276* shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $54,605,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $14,227,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, [$16,000,000] *$8,000,000* to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other

Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property[: *Provided further*, That $3,770,000 of the amount shall be made available to the National Archives and Records Administration to pay expenses related to the establishment and relocation of the National Long Term Records Center (which shall be known hereafter as the "Silvio O. Conte National Records Center"), authorized and directed by Public Law 101-509].

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided, for Policy Direction, Board of Contract Appeals, and accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109, [$31,421,000] *$30,431,000: Provided, That this appropriation shall be available for general administrative and staff support services, subject to reimbursement by the applicable organization or agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: Provided further, That not less than $825,000 shall be available for personnel and associated costs in support of Congressional District and Senate State offices without reimbursement from these offices: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses.*

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; *and for the Information Security Oversight Office established pursuant to Executive Order 12356;* $46,014,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, [$34,994,000] *$35,994,000, of which not to exceed $2,400,000 shall remain available until expended for procurement and installment of an automation program in support of audits and investigations: Provided, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: Provided further, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.*

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $2,129,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

[Section 1. Notwithstanding any other provision of law, the General Services Administration shall pay from funds made available to GSA in the Real Property Relocation account, not to exceed $8,000,000, for expenses related to the relocation of the U.S. Fish and Wildlife Service regional office authorized and directed by Public Law 101-136.

[Sec. 2. The Administrator of GSA is authorized to accept property from the State of Maryland at no cost for the purpose of constructing a computer facility for the Bureau of the Census and to begin preliminary design work on such a facility. GSA is directed to submit to the appropriate authorizing and appropriations committees of the Congress an evaluation of need and prospectus for this project no later than August 23, 1991.]

SEC. 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 2 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1992 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. (a) Notwithstanding any other provision of law, agencies are hereafter authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

SEC. 6. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 7. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 8. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: Provided, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 9. Notwithstanding any other provision of law, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), is authorized to receive any revenues, collections, or other income received during fiscal year 1992 in the form of rebates, cash incentives or otherwise, related to energy savings, all of which shall remain in the Fund until expended, and remain available for Federal energy management improvement programs as may be authorized by law or as may be deemed appropriate by the Administrator of General Services. The General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority, in such activity or activities of the Fund as may be necessary. The General Services Administration is authorized to: receive amounts from the sale of materials for recycling, all of which shall remain in the Fund until expended, and shall remain available for Federal energy management improvement programs, for further source reduction and recycling programs, and for child day care or other Federal employee benefit programs to encourage employees to participate in recycling programs; receive amounts from concessionaires' fees, all of which shall remain in the Fund until expended, and shall remain available for programs which promote energy conservation in food service facilities and equipment; Provided, That no later than 8 months after the enactment of this Act the Administrator of General Services shall report to Congress on the progress toward meeting the energy performance and recycling goals established in Public Law 100-615 and Executive Order 12759, and shall submit legislation to implement the recommendations of the Administrator or appropriate measures that would assist Federal agencies in meeting or exceeding these goals.

SEC. 10. The Administrator of General Services shall submit to the Congress no later than September 30, 1992, an inventory of all the real property in Hawaii that is owned or controlled by any agency of the Federal Government, including the United States Department of Defense: Provided, That the Administrator of General Services shall submit an interim report no later than June 1, 1992 and shall compile all information including that received from the United States Department of Defense: Provided further, That the State of Hawaii shall cooperate to the fullest extent in the preparation of the inventory: Provided further, That the inventory shall identify and include: (1) ceded lands—title vested in the then territory of Hawaii, and nonceded territorial lands, title vested in the then territory of Hawaii; (2) ceded lands, title vested in the United States, but controlled and used by the then territory of Hawaii; (3) ceded lands formally setaside by Presidential executive orders for use by the United States Government; (4) then territorial lands formally set aside by gubernatorial executive orders for use by the United States Government; (5) ceded lands under the control of the then territory of Hawaii, but used by the United States Government under permits and licenses; (6) nonceded lands and private lands acquired and used by the

United States Government: Provided further, That for each property identified, the inventory shall provide: (1) an explanation of how the land was acquired, including the date of acquisition, the history and the current status of the title, an identification of all current encumbrances and leases, the expiration date of all leases, contracts and other agreements, and a record of the ceded lease fee or any other sums paid for the use of or title to the land; (2) the identity of past and present Federal users of the land, and a description of past and current use specifying which United States Government agency or department of the military has control of the property; (3) the obligations of the controlling United States Government agency or department of the military for the management and maintenance of the land.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, [$152,143,000] *$154,143,000*, of which [$5,400,000] *$6,000,000* for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, *shall remain available until expended.*

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101-194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $6,303,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor-vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: Provided, That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1992. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $116,593,000, of which not less than $600,000 shall be made available for the establishment of Federal health promotion and disease prevention programs for Federal employees; and in addition $79,757,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs: Provided further, That amounts authorized to be transferred from the appropriate trust funds for implementation of the Federal Employees' Retirement System automated recordkeeping system in this or prior Acts, may be transferred at any time the Office of Personnel Management deems appropriate: Provided further, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: Provided further, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: Provided further, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1992, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission: Provided further, That the Director of the Office of Personnel Management may transfer from this appropriation an amount to be determined, but not to exceed $253,000, to the National Advisory Council on the Public Service as established by Public Law 101-363, and of the moneys appropriated to the Office of Personnel Management under this heading in the Treasury, Postal Service and General Government Appropriations Act, 1991, the Director may transfer an amount to be determined, but not to exceed $84,000, to such Council, notwithstanding any other provision of this Act, to be available for expenditure no later than September 30, 1991.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, *rental of conference rooms in the District of Columbia and elsewhere*, hire of passenger motor vehicles: [$3,118,000] *$3,468,000*; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, *as determined by the Inspector General.*

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $2,503,535,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $14,249,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $6,078,686,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended and the Act of August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

[REVOLVING FUND

[Pursuant to section 4109(d)(1) of title 5, United States Code, cost for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.]

OFFICE OF PERSONNEL MANAGEMENT

GENERAL PROVISION

SECTION 1. The allowances provided to Federal employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10,000 as in effect on the date of the enactment of this Act may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 1995: Provided, That no later than March 1, 1995, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing adjustments to the methodology for calculating allowances which take into account all costs of living in the geographic areas of the affected employees.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $23,361,000, together with not to exceed $1,850,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), and the Whistleblower Protection Act of 1989 (Public Law 101-12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $7,789,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $20,769,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid

travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; **[$33,050,000]** *$32,050,000: Provided, That travel expenses of the judges shall be paid upon the written certificate of the judge.*

This title may be cited as the "Independent Agencies Appropriations Act, 1992".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 505. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 506. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 507. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 508. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 509. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 510. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 511. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 512. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 513. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 514. The provision of section 513 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 515. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 516. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 517. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1992.

SEC. 518. (a) Notwithstanding any other provision of law, during fiscal year 1992, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1992 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1992, be exer-

cised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 519. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 520. The Office of Personnel Management may, during the fiscal year ending September 30, 1992, accept donations of supplies, services, and equipment for the Federal Executive Institute, the Federal Quality Institute, and Executive Seminar Centers for the enhancement of the morale and educational experience of attendees.

SEC. 521. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 522. The United States Secret Service may, during the fiscal year ending September 30, 1992, accept donations of money to offset costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

[SEC. 523. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.]

SEC. 523. (a)(1) In the cases of all appropriations accounts within this Act with the exception of the Committee for the Purchase From the Blind and Other Severely Handicapped, salaries and expenses, from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1992 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1991,

(B) be planned to be obligated for such expenses after such date during fiscal year 1992, and

(C) result in total outlays of $15,733,000 in fiscal year 1992.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1992, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

SEC. 524. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

SEC. 525. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

SEC. 526. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

[SEC. 527. No funds in this Act may be used to award a Federal agency lease in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, which do not meet the following criteria:

[Any Federal agency which leases commercial space in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, when entering into new leases, shall give preference to space available meeting standard government lease criteria, which is offered at the lowest cost per square foot within the geographical area, provided it also meets the occupying agency's mission requirement.

[SEC. 528. (a) None of the funds appropriated by this Act may, with respect to an individual employed by the Bureau of the Public Debt in the Washington Metropolitan Region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to a position outside such region, or to accompany a position outside of such region, pursuant to a transfer of any of such Bureau's operations or functions to Parkersburg, West Virginia.

[(b) Subsection (a) shall not apply with respect to any individual who, on or after the date of enactment of this Act, declines an offer of another position in the Department of the Treasury which is of at least equal seniority, status, and pay, and which is within the Washington Metropolitan Region.

[SEC. 529. No later than eight months after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit, together with appropriate legislation to implement the recommendations of the Director, a report to Congress which surveys the use of work and family programs for Federal employees, and makes recommendations on appropriate measures to enhance the effectiveness of these programs, and to increase the number of employees participating.]

SEC. 527. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 528. (a) None of the funds appropriated by this Act, or by any Act appropriating funds for activities of the Department of the Treasury that is enacted before December 31, 1995, may, with respect to an individual employed by the Bureau of the Public Debt in the Washington Metropolitan Region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to an employment position outside such region, or to accompany an employment position outside of such region, pursuant to a transfer of the operations or functions of the Bureau to Parkersburg, West Virginia.

(b) Subsection (a) shall not apply if, after the date of enactment of this Act, the Department of the Treasury has established a program under which an individual referred to in subsection (a) has been provided—

(1) outplacement services, including employment counseling assistance, employment referral assistance, and assistance in the preparation of employment applications or résumés;

(2) notification of existing vacancies in employment positions in other departments and agencies of the Federal Government within the Washington Metropolitan Region, which positions have a status and pay similar to that of the position held by the individual at the Bureau of the Public Debt;

(3) in the case of an individual who seeks employment in a position referred to in clause (2), such training as the Secretary of the Treasury determines is necessary to qualify such individual for employment in the position; and

(4) any other assistance and training that the Secretary determines to be necessary or advisable.

(c)(1) Any individual referred to in subsection (b) who, within five years after the date of the enactment of this Act, submits an application for employment in a position of employment in a department or agency of the Federal Government shall be entitled to five additional points above the earned rating in the competitive service of such individual with respect to the application.

(2) The Secretary of the Treasury shall take such actions as are necessary to notify the individuals referred to in subsection (b) and the relevant officers of the departments and agencies of the Federal Government of the entitlement referred to in paragraph (1).

(d) Notwithstanding any other provision of law, if any vacancy arises in a position of employment at the Bureau of the Public Debt in the Washington Metropolitan Region during the period referred to in subsection (c)(1), the Secretary of the Treasury shall make such position available to any individual referred to in subsection (b) who is qualified to perform the duties of the position.

SEC. 529. None of the funds made available to the United States Customs Service may be used to collect or impose any land border processing fees at ports of entry along the United States-Mexico border.

SEC. 530. Section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended—

(1) in the first sentence by inserting "or at an airport facility used for travel en route to or from such property" after "Public Law 94-524,";

(2) in the fourth sentence by inserting after "$300,000", "at the one nongovernmental property, and $70,000 at the airport facility,"; and

(3) by adding at the end thereof the following after "Governments": ": Provided further, That

the airport facility is wholly or partially located in a municipality or political subdivison of any State where the permanent resident population is 7,000 or less, the airport is located within 25 nautical miles of the designated nongovernmental property, and where the absence of such Federal assistance would place an undue economic burden on the affected State and local governments".

SEC. 531. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1992 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding any other provision of law, a Federal employing agency shall make the deposit from existing appropriations into the Federal Employees Compensation Account of the Unemployment Trust Fund, as required by section 8509 of title 5, United States Code, not later than thirty days after the Department of Labor has billed the agency for the amount to be deposited.

SEC. 604. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United Stated Code.

SEC. 605. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: Provided, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: Provided further, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101-549 over the cost of comparable conventionally fueled vehicles.

SEC. 606. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 607. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 608. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: Provided, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: Provided, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 612. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 613. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 614. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 616. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1992, or September 30, 1993, by this Act or any other Act, may be used to pay any prevailing

rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1991, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1992, and that portion of fiscal year 1993, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1993, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1992, under section 5303 of title 5, United States Code.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1991, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1991, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1991.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 617. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 618. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 619. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 620. No funds appropriated in this or any other Act for fiscal year 1992 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.".

SEC. 621. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 622. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89–306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 624. Notwithstanding section 1346 of title 31, United States Code, or section 607 of this Act, funds made available for fiscal year 1992 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 625. Notwithstanding any provisions of this Act or any other Act, during the fiscal year ending September 30, 1992, any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated in this or any other Act to install telephone lines, necessary equipment, and pay monthly charges, in any private residence or private apartment: Provided, That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

SEC. 626. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee

that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 627. Section 4521 of chapter 45, title 5, United States Code, is amended by deleting "5949(a)." at the end of the sentence and inserting in lieu thereof, "section 402 and section 405(b) of this Act."

SEC. 628. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed releasing the reversionary interest held by the United States to the property identified in paragraph (b).

(b) All that lot, piece or parcel of land, situated, lying and being on the west side of Chisolm Street, in ward 2, in the city of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southernmost line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills property to the United States of America, by Deeds which are recorded and may be seen in book U-24, page 582 and page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said plat is on record in plat book C, page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in book U-24, page 587, and by deed of West Point Mill Company, dated November 20, 1916, and recorded in said office in book U-24, page 589.

SEC. 629. NEW COLLEGE OF CALIFORNIA, INC.

(a) RELEASE OF REVERSIONARY INTEREST.—Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the New College of California, Inc., a deed releasing the reversionary interest held by the United States to the property described in subsection (b).

(b) PROPERTY DESCRIPTION.—For the purpose of subsection (a), the property, sometimes known as 50 Fell Street, is described as: A parcel of land situated in the City and County of San Francisco, State of California, said parcel being described in the Judgment on Declaration of Taking entered 11 March 1946 in Civil Action No. 25791 in the District Court of the United States in and for the Northern District of California, Southern Division, which was filed March 22, 1946, in the Office of the Recorder, City and County of San Francisco, California. Beginning at a point on the northerly line of Fell Street distant therefrom 100 feet easterly from the easterly line of Van Ness Avenue and running thence easterly along said line of Fell Street 109 feet; thence at a right angle northerly 120 feet; thence at a right angle westerly 109 feet; thence at a right angle southerly 120 feet to the Point of Beginning, being a portion of Western Addition, Block No. 69, and known on the assessor's map as Lot 10, Block 814, City and County of San Francisco, California, containing 0.30 acres more or less. Improvements: One L-shaped Spanish-type building containing 27,020 square feet more or less.

SEC. 630. None of the funds appropriated by this or any other Act may be used to relocate the Department of Justice Immigration Judges from offices located in Phoenix, Arizona, to new quarters in Florence, Arizona.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1992".

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I would like to make a brief comment on the exchange that just occurred.

Under the rules of the Senate, there is an unlimited right of debate and an unlimited right of amendment. Those rules are protection for the minority in the Senate. We all respect and honor those rules and we respect and honor the institution and the integrity of the Senate.

Carried to their logical conclusion, if exercised without restraint, they would render the Senate incapable of any action whatsoever. And so over the course of many years, there has developed a practice of proceeding by unanimous consent with respect to specific legislation and thereby imposing time limits and other limitations that would not otherwise exist.

Hardly a day goes by in the Senate in which there is not operating a unanimous-consent agreement of one kind or another. And once an agreement has been reached, there is a degree of good faith and trust and confidence in the willingness of Members of the Senate to comply with those agreements so that the Senate can continue its business in the most efficient manner possible, given the nature of the institution and the rules which exist.

It is true that any Senator may at any time during the existence of such an agreement seek to reverse its intent by a contrary action. Senators should be aware that if that is to become the practice in the Senate, that will effectively undermine the methods by which we operate and will have the effect of greatly extending sessions of the Senate, making our ability to operate in an organized and predictable way extremely difficult, if not impossible.

If I cannot enter into an agreement with the Republican leader at 12:30 to assure a status on the Senate floor until 1 o'clock and not be able to leave the Senate for fear that someone is going to come in here and act in a manner directly contrary to the spirit and intent of that agreement, then the comity of the Senate and the willingness of Senators to cooperate, the ability of the Senate to function as a body in which civil and reasoned debate can and will occur will be severely undermined.

I have tired very hard over these past 3 years to work in a manner that every Senator felt was fair to each Member of the Senate; to build upon the legacy of my predecessors in creating a situation in which there was that necessary comity and trust and good faith.

I think it is very important that Senators understand what is at stake here. If agreements cannot be honored, if we cannot be confident that what we do in one minute will not be reversed in the next, then it calls into question the manner in which the Senate conducts its operations and will require me to reconsider the manner in which I have attempted to conduct the operations of the Senate.

Trust must be a two-way street. Cooperation must be a two-way street. Comity must be a two-way street. Fairness must be a two-way street. There cannot be trust one way. There cannot be fairness one way. It has to come from both sides and from all Senators.

Mr. President, it is my hope that we can, this afternoon, dispose of the Treasury and Postal Appropriations bill, and that we can return, upon completion of that bill, to the crime bill which I hope we will complete action on today. These are important measures. It is important that the Senate act on them.

But what is involved here is more important than either of these bills individually or in the aggregate or any bill. What is involved here is the manner in which the Senate will conduct its affairs and the integrity of the institution and the processes by which we seek to assure that the important business considered by the Senate will occur in a fair, reasonable, and responsible way. I hope all Senators will keep that in mind in the next several hours.

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

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The legislative clerk continued with the call of the roll.

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

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

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, today we are considering H.R. 2622, the fiscal year 1992 Treasury, Postal Service, and General Government appropriation bill. This measure provides funding for the programs of the Department of the Treasury, including the Customs Service, the U.S. Mint, the Secret Service, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms.

In addition the bill provides funding for the payment to the Postal Service fund, the various offices within the Executive Office of the President, and certain independent agencies including the General Services Administration, the Office of Personnel Management, the National Archives, and the U.S. Tax Court.

The bill as recommended by the Committee on Appropriations provides total obligational authority of $19,581,993,750. This represents a decrease of $1,332,983,250 from the appropriations provided for fiscal year 1991 and a decrease of $48,708,250 from the House-passed bill. The bill as recommended is only $59,956,750, above the President's request. With respect to the subcommittee 602(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I commend Senator DECONCINI, chairman of the subcommittee, and Senator DOMENICI, the ranking minority member, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget. Their work was in no small part assisted by the cooperation of their colleagues on the Subcommittee and on the full Committee on Appropriations.

I also thank the subcommittee staff on both sides of the aisle: Patty Lynch, Shannon Brown, and Rebecca Davies. These professionals have worked tirelessly on behalf of the subcommittee.

I urge my colleagues to support this bill.

Mr. DOMENICI. Mr. President, the chairman of the subcommittee, Senator DECONCINI, will be along shortly. But I understand we are now on the Treasury, Postal Service appropriations bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I ask unanimous consent I may proceed for 30 seconds as in morning business and will return to the bill when the 30 seconds is up.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

MEMORIAL TO HENRY KIM, USDA FOREST SERVICE LEAD PILOT

Mr. DOMENICI. Mr. President, I rise today to pay tribute to a true American hero. His name was Henry Kim, a lead plane pilot with the Forest Service, killed while doing his job. Henry Kim was born in Honolulu, HI, and was a graduate of the U.S. Naval Academy. He was the recipient of several military decorations including the Navy Achievement Medal, the Air Medal, and the Vietnam Service Medal. But Henry was not just a lead plane pilot, he was also a husband and a father. He leaves behind his wife, Susan, and daughters Julie and Angeline who reside in Albuquerque, NM. He will be missed by his many friends and colleagues.

Mr. President, of late, it has been in vogue for many of us to heap abuse on Federal employees. It has also been fashionable lately to accuse the Forest Service of destroying our national forests. There are those who say that the Forest Service is doing here in America, on our national forests, what is alleged to be occurring in the tropical forests of South America.

Mr. President, this year is the 100th anniversary of the creation of the first forest reserve. The forest reserves were the beginnings of our magnificent National Forest System, administered under a multiple-use mandate from Congress by the USDA Forest Service. Today the mission of the Forest Service is being challenged as never before in their long history. In fact, the management philosophy of multiple-use itself is being challenged.

In a free and democratic society, challenging the actions and mission of a government agency is done frequently and is often an appropriate action for citizens to take. However, we must not forget that the Forest Service is comprised of a group of dedicated and professional people who are often only doing what the American people want done, and what Congress has directed them to do.

One of the Forest Service's most important missions is to protect the national forests from wildfire. This is the agency that rescued a bear cub in the Lincoln National Forest in New Mexico and gave America one of its most popular national symbols—Smokey the Bear. Fighting forest fires is a difficult and often dangerous task. When a wildfire starts, dedicated personnel in the Forest Service drop their day-to-day tasks and rush to the site to fight the spread of the blaze.

Henry Kim, was one of these brave civil servants. When called on to fight a forest fire, he was a "lead plane pilot." Lead planes are the "fighter planes of the Forest Service's unique Air Force. They are used in fighting forest fires to lead the larger and heavily loaded "retardant bombers" in their aerial bombardment of the leading edge of raging forest fires. Fire Retardant is used to slow the progress of a forest fire until ground crews are able to bring the fire under control. Retardant is used typically when the weather conditions are the most severe and in rough, rugged mountainous country where on-the-ground access is difficult.

The lead plane is used to direct the attack on the fire by the aerial tankers. They make the actual run ahead of the tankers, showing by a wag of their wings or by pointing out a specific landmark where each specific drop is to be made. After indicating where each drop should be made, the lead plane pulls up abruptly and turns quickly to watch the drop itself. The pilot can then determine how effective the drop was and plan for the next one. This cycle of tanker runs and drops continues until the progress of the fire has been slowed.

Lead pilots are not only responsible for directing the action of the aerial tankers but they are also responsible for the safety of the air operations. They determine the best way to make the run effective, to determine if the run can be done safety, to plan escape routes for the tankers from the hazardous terrain and fire situation, and to determine if the conditions are suitable for air tanker operations. If the turbulence is too great, if the visibility is too poor, or if in their judgment the operation cannot be conducted, it is the lead pilot who orders that the operations be ceased.

Henry Kim was an accomplished pilot. Prior to his career with the Forest Service, he was a naval aviator, flying planes on and off of aircraft carriers. Henry was also the aviation safety officer for the southwestern region.

On Friday, June 21, Henry Kim was in the air, piloting his lead plane and directing the aerial tankers as they attacked the Ziplock fire on the Cibola National Forest near Grants, NM. After leading a tanker on a run into a deep, rugged canyon on the slopes of Mount Taylor, Henry's plane pulled up abruptly and rolled into a tight turn. The plane, inexplicably, continued to roll

and impacted into Mount Taylor, inverted and at full power.

Mr. President, this was a tragic accident, and I send my heartfelt sympathy to his wife and two daughters. Henry Kim was a fine and noble American, and we should all pay tribute to this courageous civil servant.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. DOMENICI. 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. 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.

PRIVILEGE OF THE FLOOR

Mr. DECONCINI. Mr. President, I ask unanimous consent for Mr. John Shay, who is attached to my office for the time being, of the Appropriations Committee, be permitted the privilege of the floor during the consideration of the Treasury-Postal appropriations bill, including votes.

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

Mr. DECONCINI. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 2622.

Mr. DECONCINI. Mr. President, I am pleased to bring before us and talk in favor of H.R. 2622, an act making appropriations for the Department of the Treasury, the Postal Service, the Executive Office of the President, and certain independent agencies for fiscal year 1992. The bill we are recommending to the Senate totals $19.581 billion. This amount is $1.3 billion below the fiscal year 1991 enacted level; $48.7 million below the House-passed level; $59.9 million above the President's fiscal year 1992 budget request; and below the 602(b) allocations for budget authority and outlays.

The bill we bring before this body today balances the funding priorities of the Senate with those of the executive branch. It provides the President with the funds he needs to operate his executive offices; collect taxes; continue the war on drugs; train our Nation's Federal law enforcement officers; repair aging Federal buildings, and construct new office space for Federal agencies and courts to meet increased workload demands. It also funds the mandatory benefits owed to our Nation's current and retired civil servants.

Briefly, I will go over some of the highlights of the committee bill.

For the Federal Law Enforcement Training Center, the bill before you contains $57.8 million. These funds are needed to construct new facilities to keep pace with the rising demand for Federal, State, and local law enforcement training, particularly with respect to those agencies involved in drug enforcement.

For the Bureau of Alcohol, Tobacco and Firearms, the bill contains $341.1 million for alcohol and firearms compliance and enforcement. These funds will ensure the protection of our Nation's citizens against those using weapons to further their criminal activities. This funding level will also ensure that ATF has the resources it needs to keep criminal elements out of the alcohol industry in this country.

For the U.S. Customs Service, the bill contains $1.5 billion for drug enforcement, merchandise processing, and contraband detection. This funding level will permit the Customs Service to maintain its vigilant attack on illegal drug activities while permitting the expeditious processing of goods to keep U.S. business competitive in international trade.

For the Office of National Drug Control Policy, the bill contains $113 million for operations and activities of the drug czar and authorizes the expenditure of $67 million in special forfeiture fund proceeds for a number of antidrug activities. The President did not request funding in fiscal year 1992 for assistance to State and local drug control agencies for antidrug initiatives in designated high intensity drug trafficking areas. The committee bill recognizes the burdens placed on State and local law enforcement, particularly in the five areas where drug trafficking continues at staggering levels, and includes $35 million to continue direct assistance to State and local drug control agencies in the designated HIDTA areas. The bill also contains $23 million for counterdrug research and development activities to give Federal law enforcement agencies better tools to battle the drug war; $10 million to fund 10 demonstration treatment projects for substance-abusing women to take their children to certified residential centers for drug treatment services; $28 million for an additional 200 IRS special agents to conduct money laundering and other drug investigations; $10 million for an additional 100 border patrol agents for drug enforcement on the United States-Mexico border; and $5 million for a West African counter-drug task force to stem the increased heroin drug tide in the United States. All of these activities are vital to maintaining an aggressive attack on drug trafficking and drug use and are all vital components of the national drug control strategy.

For the General Services Administration, the bill funds a series of new courthouses throughout the country to meet the expanding requirements of the judiciary. The bulk of funds contained in the Federal Buildings Fund are for the expansion of existing court space and the construction of new courthouses for judgeships authorized by the Congress.

For the Internal Revenue Service, the bill contains $6.7 billion. This amount will fully fund the revenue compliance deficit reduction initiative, begun in fiscal year 1991; modernization of the Nation's antiquated tax systems to permit the IRS to meet the growing taxpayer processing and revenue collections demands in the decades ahead, and will permit some of the best-trained law enforcement agents in the country to crack down on those individuals who seek to evade the tax laws. The bill recommended to the Senate contains the full amount needed by the IRS to fund mandatory pay and other nondiscretionary costs so that funds are not diverted from important tax collection and taxpayer service activities to fund mandatory requirements.

Finally, the bill contains $322 million for Executive Office of the President agencies so that the President can carry out his official duties in the manner in which he deems appropriate. It also contains mandatory spending of $8.7 billion for payments to civil service annuitants for health, retirement, disability and life insurance benefits.

Mr. President, as I stated earlier, the bill we are recommending to the Senate is a fair and balanced bill. It doesn't contain funding for everything we would have liked to fund because the money simply wasn't there. Last year's budget agreement placed caps on domestic discretionary spending for deficit reduction purposes. Even though I voted against the budget agreement, as chairman of this appropriations subcommittee I am still required to comply with its limitations. As a result of last year's budget agreement, our job this year in developing funding recommendations for the important agencies in this bill has been more difficult than ever before. The fiscal year 1992 602(b) allocation for the treasury subcommittee is $1.6 billion in budget authority and $300 million in outlays below the current services baseline level. Those reduced spending limits have forced us to make some tough choices. For some programs, the President requested increases well above baseline levels. For others, he proposed major reductions from the level the Senate has historically supported. Not every program received the funding we thought it deserved because our allocation would not permit it. Nonetheless, the bill we are proposing recognizes the budgetary realities while funding those programs this body has continually supported.

This bill does not contain any pork, Mr. President. It funds basic expenses

for the operations of many critical Government programs. All will have to toe the line in certain respects. For example, the bill does not contain the requested level of funds to implement the Chief Financial Officers Act; not because we don't support the goals of that Act but because we could not afford the additional costs. It does, however, contain CFO funds requested by OMB and does not restrict agencies in any way from using available funds to comply with the Act. The bill also contains a 5-percent across-the-board reduction in travel for virtually every account. For Customs and the Office of National Drug Control Policy, the travel cut is even higher. Despite the general view that Federal travel can be cut with little or no effect, Mr. President, I am concerned that travel reductions in certain areas, such as law enforcement, could have a detrimental effect on law enforcement investigations. Regardless, we had to take some actions which will be felt to meet our budgetary targets.

This is a just, responsible, and lean bill, Mr. President and one I hope the Members of this body will approve. It achieves deficit reduction while providing sufficient levels of funding for those programs which the Government needs to carry out some of this Nation's highest Federal program priorities.

I urge its adoption by the Senate and before I yield to my ranking member for any opening remarks he may wish to make, I want to take this opportunity to compliment my ranking member, the distinguished Senator from New Mexico, for his hard work in helping formulate this bill. He and his staff, Rebecca Davies, are real assets to the committee and I must say his cooperation and hard work have helped us develop an excellent bill during very trying times. I also want to thank Shannon Brown and John Shay of the subcommittee staff for their hard work and effort in helping to prepare this bill for floor consideration.

Let me end, Mr. President, by saying I wish we had more money. If we had more money, we would do a lot. We could not only continue the war on drugs, I think we could win the war on drugs. But we have not been able to mobilize this country or the administration, in my judgment, to really declare war on drugs as we declared war on Saddam Hussein and commit this country completely to that effort. In spite of that, we have done our best to maintain a level that will keep the drug lords on the defensive, that will permit our law enforcement officers to have the adequate financing they need, to have adequate supplies, and to have a modest expansion of their efforts against the drug smugglers and the drug dealers of this country.

I yield to my distinguished colleague.

Mr. DOMENICI. Mr. President, first let me thank my friend, the Senator from Arizona, chairman of this subcommittee, for all of his efforts in behalf of those in Government who must have this bill passed for them to have an ensuing year that is worthwhile and positive for them in their service to the Government.

I join the chairman in indicating to the Senate that it is my pleasure to bring before the Senate for their consideration H.R. 2622, the Fiscal Year 1992 Treasury, Postal Service, and General Government Appropriations Act.

This bill, as reported by the Senate Appropriations Committee, recommends a total of $19,582,000,000. This includes $9,660,000,000 for the U.S. Department of the Treasury, including the IRS; $322 million for the Executive Office of the President; $424 million in payments to the U.S. Postal Service; $8,716,000,000 for the Office of Personnel Management; $191 million for the General Services Administration, as well as authority for GSA to obligate $4,028,000,000 in Federal Buildings Fund revenues; and a total of approximately $268 million for the 11 other related independent agencies.

Including congressional budget scorekeeping adjustments and prior-year spending actions, the total nondefense discretionary spending recommended by this bill is $10,524,000,000 in budget authority and $11,199,000,000 in outlays. These levels are within the subcommittee's budget authority and outlay discretionary spending allocations, called 602(b)'s for fiscal year 1992.

Mr. President, I tell my colleagues at the outset that this has been a very difficult process for the subcommittee this year. The subcommittee's fiscal year 1992 discretionary outlay allocation is $300 million below the baseline for fiscal year 1992. Essentially what that means, Mr. President, heretofore when we did not reach baseline, everybody would refer to the amount by which we underspent baseline as a cut in programs. That is what we have here. We have $300 million below the baseline that is projected from last year's spending. That is the amount which would be required to continue discretionary spending programs and activities at their current levels adjusted for inflation. This does not take into account any increases for any new initiatives. These are not included in the definition of baseline.

As my colleagues are aware, this bill provides funding for a vast number of very basic essential government functions. They inlcude the debt financing, collections, and payments functions of the Federal Government; production of domestic coins; processing of cargo and passengers; the management, acquisition and disposal of Federal property; oversight of the Federal work force; and a host of other activities. These essential government functions are personnel intensive and require increased funding from year to year in order to maintain their base program levels and to keep pace with a growing workload which is required of most of them. Drastic cuts would be required—which we do not recommend—to yield any substantial outlay savings in the immediate fiscal year.

We have demanded sacrifices in these areas however. With the exception of the Committee for Purchase from the Blind and Severely Handicapped, which has a very small budget, we have taken 5 percent in travel expenses across all programs and activities in this bill, and some, perhaps, will have a difficult time with it. We are only hopeful that it will not affect their performance. We have deferred some important Treasury Department initiatives, and we have required the absorption of additional costs related to the Chief Financial Officers Act, and that has been explained by the chairman.

Let me make it clear that this bill in no way, either inferentially or directly, seeks to produce appropriations which do not finance the Chief Financial Officers Act. Quite to the contrary, in select cases, we funded these additional costs, and in all others we left a clear indication that if they want to fund it out of their current expenditures they ought to do that.

So we are not trying, as some tried in the House, not to fund this program. We think since Congress passed it, we ought to put all the various agencies and departments of Government on a regularized Government process internally, and that they ought to have a much clearer way of knowing where they are month by month with reference to their finances.

For the Internal Revenue Service, total funding of $6,680,000,000 is recommended. Everyone should know that is a very big increase, $572 million above the fiscal year 1991 funding level. This is less than the 10.2 percent funding increase recommended by the administration. This level of funding reflects the amount necessary, in our opinion, for the IRS to maintain its onboard personnel strength to meet increasing workload requirements, to provide adequate levels of service to the American taxpayer, and yes, to continue implementation of fiscal year 1991 resource compliance initiatives in accordance with last year's Omnibus Budget Reconciliation Act.

The funding recommendation for IRS also includes the increase requested by the administration for IRS' important tax systems modernization initiatives. This investment is essential to move our Nation's tax processing functions out of the 1950's and into the age of modern technology. This effort will result in an efficient, reliable system of tax administration which properly serves and responds to the American taxpayer.

Frankly, this is one of the most important things we are doing in this bill. Believe it or not, I think most Americans would expect the IRS—which collects a lot of money for us, in fact most of it—to have the most modern of computer systems and mechanization consistent with today's miracles of technology. Such is not the case.

As I said a moment ago, we have to get IRS out of the 1950's and into an age of modern technology and we are staying on that path with funding of the President's request in that regard. We cannot let that go by the boards without punishing future generations and not being able to respond properly to the taxpayers of America.

At the same time, this bill continues to place priority on our Nation's commitment to the war on drugs and crime by adequately funding essential Treasury Department law enforcement functions and activities of the Office of National Drug Control Policy.

It does not recommend all of the reductions proposed by the administration. It continues funding for State and local activities in designated high-intensity drug trafficking areas. It provides full funding for the Bureau of Alcohol, Tobacco and Firearms' alcohol compliance programs. It maintains the customs' inspection staffing at the level mandated by Congress for fiscal year 1991. We were hopeful that we could have done a lot better.

The bill provides $200 million as an increase above the President's $183 million for the payment to the U.S. Postal Service for revenue forgone as a result of carrying certain categories of mail at preferred or reduced rates. Although the amount recommended is above the President's requested level, it is short of the full subsidy required for the year 1992. We are unable to accommodate within the subcommittee spending the full amount requested by the Postal Service. This requirement is about $158 million above the fiscal year 1992 baseline and $466,301,000 above the President's fiscal year 1992 request.

While we recognize the benefits derived by small county newspapers, charitable organizations and others authorized to mail at subsidized rates, reforms in the subsidy program must be made to curtail its costs to the taxpayers while maintaining a longstanding policy of rate preferences for certain mailers.

Current law leaves it to the Board of Governors of the Postal Service to act to divide any reduced benefit among all relevant classes of reduced-rate mail in the case where Congress fails to appropriate the full amount. We do not necessarily think this is the best course of action.

It is our intent during the consideration of this bill to offer an amendment which we hope will be supported by our colleagues and the members of the authorizing committee to put into place one reform in this program recommended to us in a recent Postal Rate Commission report.

This reform will reduce the cost of this program to the taxpayers while protecting the worthy recipients of this benefit.

Mr. President, I would like to commend and thank the chairman of the subcommittee, my good friend, Senator DECONCINI, from the State of Arizona, for his leadership, hard work and dedication on this measure.

As I said, it has been a difficult process this year. We were forced to make some tough choices. However, I believe we have done a reasonably good job and have properly balanced the various competing spending needs, within our jurisidction and within the limitations of money that we have available. I hope our colleagues will support this bill and support the amendment that we will offer regarding postal subsidies to make sure that all those who really need that service will continue to get it, and the reform will be explained in detail when we offer the amendment.

I yield the floor.

Mr. DECONCINI. 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. 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.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the committee amendments to H.R. 2622, with the exception of committee amendments on page 20, line 7; page 59, lines 7 and 8; and page 59, lines 13 and 14, be considered and agreed to en bloc; provided that no points of orders are waived thereon; and that the measure, as amended, be considered original text of the proposed and further amendments and providing futher that the remaining amendments may be temorarily laid aside by agreement of the floor managers of the bill.

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

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate approve all those amendments before the Senate except those that were laid aside by this unanimous consent agreement just previously agreed to.

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

The committee amendments were agreed to with the exception of committee amendments on page 20, line 7; page 59, lines 7 and 8; and page 59, lines 13 and 14.

AMENDMENT NO. 732 TO EXCEPTED COMMITTEE AMENDMENTS ON PAGE 20, LINE 7

Mr. DECONCINI. Mr. President, on behalf of myself and Mr. DOMENICI, 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 Arizona [Mr. DECONCINI], for himself, Mr. DOMENICI, and Mr. BOND, proposes an amendment numbered 732 to the excepted committee on page 20, line 7.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee amendment, insert the following:

": *Provided*, That the last sentence of section 2401(c) of title 39, United States Code, is amended to read as follows:

"In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall (i) include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume; and (ii) calculate the sums requested in respect of mail under former sections 4452(b) and 4452(c) of this title as though all such mail consisted of letter shaped pieces, as such pieces are defined in the then effective classification and rate schedules."

": *Provided further*, That section 3626(a)(2) of title 39, United States Code, is amended to read as follows:

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be: *Provided, however*, that with respect to mail under former sections 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules."

": *Provided further*, That section 3626 (i)(2) is amended by adding at the beginning of the first sentence thereof the phrase, "Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title,"

": *Provided further*, That second-class in-county preferred mail shall continue at the rates in effect on the date of enactment of this Act during fiscal year 1992: Provided further, That third-class nonprofit mail rates in effect on the date of enactment of this Act, with the exception of pieces other than letter shape, shall not increase during fiscal year 1992 as a result of this appropriation and the United States Postal Service Board of Governors are instructed to reconcile any fiscal year 1992 funding shortfall as a result of this appropriation against future year appropriations requests: *Provided further*, That notwithstanding the provisions of sections 3624(c), and 3641(a) of title 39, United States Code, the Postal Service, in any proceeding it initiates under section 3622(a) of title 39, United States Code, for the sole purpose of increasing rates for third-class nonprofit mail other than letter shape, may place temporary rate changes into effect, as provided

in the last sentence of section 3641(a) of title 39, upon such date as it may determine but in no case, less than 20 days following the filing of its request with the Postal Rate Commission."

Mr. DECONCINI. Mr. President, the amendment I am offering today with my distinguished ranking member, Senator DOMENICI, we believe, will resolve the ongoing controversy about sufficient funding for the foregone Postal Service program.

This amendment will permit us to meet our budget deficit targets without hurting those organizations whose very existence are dependent on the sustaining of the revenue foregone program.

I am sure all Members of this body have received mail at their offices or at their residence, mail that is subsidized at a preferred rate from numerous organizations. These subsidies are possible due to annual appropriation which the Congress provides to the U.S. Treasury-U.S. Postal Service. I am not sure, however, that the Members of this body understand what the total annual subsidy for such mailings amount to and how these subsidies are calculated.

The costs are substantial, Mr. President, and growing rapidly at a time when the Congress is forced to operate within restrictive domestic discretionary spending caps.

The Postal Service requests to the Congress for the revenue foregone subsidy to maintain current rates for preferred mailers in fiscal year 1989 is the $49.3 million. OMB, on the other hand, in the President's budget requested only $183 million to continue the program in fiscal year 1992. The OMB estimate assumes enactment of a series of legislative reforms by the authorizing committee. These reforms have not been enacted and probably will not be enacted this Congress although I am not the person who can state that for any certainty. It is the authorizing committee.

While I believe the OMB estimate to continue the revenue foregone program is inadequate. I also believe the Postal Service estimate is grossly overstated. The Postal Service and others would lead Members of this body to believe that any downward departure from the $649.3 million would lead to an immediate rate increase for third-class, nonprofit mailers.

Mr. President, I do not believe this is the case. Since the postal rate increase took effect on February 3 of this year, third-class mail volumes which amount for the bulk of the revenue foregone nonprofit subsidies are down by approximately 10 percent. And, second, the Postal Service estimate by its own admission did not take into account shifts in mailing behavior as a result of the rate increase already in effect.

The Postal Service will tell you that it is simply providing its best estimate of what is required based on obsolete data, current law, and existing regulations. I am convinced that the amount required to maintain the current rate structure for all preferred mail classes is probably $100 million less than the Postal Board estimated with no reforms to the particular program we are talking about. If this calculation is proven wrong, the Postal Service would not be required to raise rates. Under current law, it is left up to the Postal Board of Governors to consider a range of options, including the use of reconciliation adjustments against future year's appropriation requirements to make up for any shortfall in the subsidy.

To take it a step further, I believe there are legislative reforms to the program which can be enacted to reduce the subsidy requirements without doing harm to the legitimate mailing by literally thousands of organizations nationwide.

The amendment Senator DOMENICI and I are offering today does just that. It will render operational savings without requiring the Postal Service to raise rates on third-class, nonprofit mailings. It will make the subsidy for the nonletter shaped mail the same as the four-letter shaped mail a difference of 4.4 cents per piece. This will result in a cost savings of $180 million.

That means, Mr. President, we are adding to the revenue foregone account $180 million over the amount that is before the Senate today in the committee amendments, in the committee bill.

Last year, the committee requested the Postal Rate Commission to study the revenue foregone program with an emphasis on third-class mailers to identify ways to make the subsidy application consistent with congressional intent. There is the class of mail that accounts for the bulk of the subsidy.

The Postal Rate Commission recently submitted a report to the Appropriations Committee which contains a series of recommendations to alter eligibility for the subsidy one of which is reflected in the amendment that Senator DOMENICI and I have sent to the desk. Both the Senator from New Mexico [Mr. DOMENICI] and I believe this amendment is fair, makes good economic sense, and is a responsible way to cope with the spiraling cost of revenue foregone subsidies. By this simple and straightforward amendment, the Postal Rate Commission estimates that the American taxpayer will save in excess of $180 million for fiscal year 1992 alone.

The amendment we are offering would require the Postal Service to charge mailers higher rates for mailings which are more costly to process the mail. It would require other than letter-shaped pieces of mail, known as flat—and let me demonstrate to you what a letter-shaped piece of mail looks like.

As you can see, this is not the size of a normal letter that you receive in the mail. But this is a letter-shaped piece of mail, which means it can be a catalog, an advertisement; it can have a number of pages; it can have a certain weight. So this continues to be the subsidized piece under the amendment by the Senator from New Mexico and myself.

Now, the flat piece is this size. And you can see the difference. Not a whole lot, but some.

Now, why does this one cost 4.4 cents more to mail than this one? This one is of such a size that it can be handled through a mechanized process and computer process and thereby the cost is saved. This one cannot. This one is the one that is really eating up the subsidy. So what we have done is we have said to the people who mail this type of material that if you want to continue to mail the expensive one, you have to pay the 4.4 cents. Now, if you want to convert that one to this one, then you still get the subsidy.

I will show later in the debate where there are some that have already converted to a smaller category type, the mailer, the envelope and the mailer, rather than the flat, because I guess saving the printing cost of that was worthwhile. Now they can save even more money. So to receive the same subsidy provided the letter-shaped piece of mail, this the difference. You cannot get it unless you reduce the size of it.

Now, if you want to go ahead and spend the money—and there are many fine advertisements that are beautifully done and very expensive promoting different things for organizations—then they will decide to go ahead and spend that money. But they have an option. By reducing it, they can still get the subsidized rate.

These groups who chose to process flats will be required to make the payment. If they want to convert, they get the subsidy they get today.

It will not affect the rate charges for any other mailings. No other mailings will be involved except these two. And, as you can see, really only one, this one, known as the flat mailer.

This is an uncomplicated proposal, Mr. President. It costs the Postal Service more to process a flat piece than it does a letter piece. Because of the machines, as I pointed out, and feeding them and doing it by hand, it takes many more hours of personnel and thereby more costs. Flats must be hand sorted, they must be reviewed by each piece, and that accounts for most of the cost.

There is precedent for recognizing the cost difference in processing these two forms of mail. As part of the last rate case, the Postal Board of Governors recognized the difference and increased the cost for the mailings.

Currently the Post Office assesses the flat piece of mail, any piece of mail

larger than this, which is 6⅛ by 11½ or 11¼ to reflect the additional processing costs at 1 cent above the regular price size of mail.

That action still did not fully compensate future cost differences between the two pieces of mailings. The subsidy difference is 4 cents per piece, roughly.

This Senator is not attempting to raise rates. Instead, we are attempting to generate savings by changing the behavior of the mailers. There are numerous congressional mandates to the Postal Service to lower its cost increases, increase efficiency, and encourage uniformity. This amendment accomplishes all three of these.

Allowing a nonprofit group to mail at a reduced rate is an inherently fair concept and policy which the Congress has traditionally supported. However, I see no reason why the American public should subsidize organizations who choose to utilize expensive processes, oversized envelopes for their mailings at a greater rate, when these organizations can accomplish the very same objective by using the letter-sized mailing.

I would say to my colleagues that if you were to check with your hometown constituents they would probably find no discernible difference between the two pieces of mail, one being a letter shape and one being considered a flat rate.

These are the differences. This one costs more. And if you want to mail it, you are going it have to pay a little more. If you want to reduce this one to this size, you get the subsidy.

But I am sure these same constituents would be outraged to know that currently their tax dollars are being used to support high-cost mailings which could be sent at a much lower cost by the Government.

The amendment that the Senator from New Mexico and I are offering will reform the program without hurting the mailers. If an organization currently mails flat pieces, it would be given the opportunity to convert those mailings to letter-shaped pieces with little or no effect, or simply pay the extra cost to continue if they decide that they want to absorb it.

The language of the amendment we have sponsored specifically prohibits—specifically prohibits—the Postal Service from raising rates above those rates in effect on the date of enactment during fiscal year 1992.

We have expended considerable efforts to identify alternatives to rate increases for these organizations who have preferred mailer status.

The problem we faced this year was an unprecedented $300 million shortfall in outlays and $1.6 billion in budget authority below the current service baseline levels for this subcommittee.

We are confronted with the options of either disseminating effective law and doing away with effective law enforcement initiatives or eating into the IRS where they could not go after tax fraud evaders and supply the services that were necessary and revenue generation capabilities or introducing modest reforms in an area where the impact would be felt the least.

With this amendment, I believe this accomplished the goal. The subsidy for flats will be the same as the subsidy for letter-class mail and save $180 million in 1982 revenues.

The Postal Rate Commission believes it is responsible and has recommended this particular way to approach this type of savings.

We have a study here which I commend to any member of the committee. Obviously you do not want to read it all, but somebody might want to look at it. It has a number of recommendations that are set forth here by the Postal Rate Commission dated July 8, 1991. And the first recommendation under the summary is the $180 million that is encompassed in the amendment that is before the Senate.

We have these available if any Member wants to review one or have their staff review it.

If action is not taken now to reduce the cost for the program, the situation will only be worse in future fiscal years. I can assure my colleagues that if this amendment is not adopted and we are forced to cut even deeper into other programs under our jurisdictions to guard against the further rate increases, our constituents will wonder why their phone calls to the IRS are unanswered or, when accurate information is not given to the taxpayer or the public, they are going to wonder why you do not have those services for us.

I think this makes good sense, Mr. President. By asking what is more important to have, good taxpayer services and to still have a subsidized mailing rate but only to change the size of it and thereby not have to eat into the IRS or some other important law enforcement area, I think is a solution that everyone can live with.

If we were to compare all of the negative effects a $180 million reduction would mean to other accounts, the possibility of some third-class mailers paying their fair share for large packages or converting to a letter-size mail, I think the choice is very clear. At least it is in this Senator's mind.

There are additional reforms that the authorizing committee may wish to consider during deliberations of revenue forgone. Many of these, however, would be much more restrictive and limited to the mailing groups.

As I stated earlier, I believe the amendment we are proposing offers a responsible solution to our funding dilemma without having any adverse effect. It permits current rates to continue for letter-size mail currently used by over 80 percent of the preferred mailing community, while providing an incentive to the remaining mailers to switch to the less expensive mailing option.

I urge my colleagues to support that.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI], is recognized.

Mr. DOMENICI. 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. DOMENICI. 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. DOMENICI. Mr. President, I ask unanimous consent that Senator JOHNSTON from Louisiana be shown as an original sponsor of the DeConcini-Domenici amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DOMENICI. Mr. President, let me discuss a couple of issues that I think are obviously bothering a lot of Senators, and make sure that I try, to the best extent possible, to explain to them what we have done in this amendment.

First, I believe many Senators will come to the floor sooner or later and ask, in this bill or the amendment that is pending, if it is adopted—and I hope it will be—have we taken care of the rural newspapers, or newspapers delivered in rural parts of America? Because there are many, many Senators who have been getting phone calls and telegrams and messages from those who manage or own so-called small or rural newspapers, talking about the fact that they are not doing very well now, and if we raise the rates they would not make it.

Let me make sure every Senator knows that the DeConcini-Domenici amendment, in the fourth full paragraph, by direct language indicates that that subsidy as it exists today for second-class, in-county preferred mail, which covers newspapers delivered in rural parts of America, is continued.

Let me repeat. There is no change in this bill to those current subsidies for rural newspapers, and we have done that by express language. We have said:

* * * *Provided, further,* That second class, in-county preferred mail shall continue at the rates in effect on the date of enactment of this Act during fiscal year 1992.

So, I know many Senators do not have a chance to hear each time we mention things on the floor, but I hope between now and the few minutes from now, as Senator DECONCINI repeats this, they hear they are taken care of. Newspapers delivered in rural counties, all of those now receiving the subsidy, will continue by mandate, in the amendment that is pending, which I hope will be adopted soon.

Let me, in my own way, try to explain what we were able to do here.

Frankly, this is one of the most difficult appropriation problems we have, because each and every year, the Postal Service of the United States sends to the Congress a dollar number, and says: This is what we expect it will cost for the subsidies, for the subsidized mail that you in the Congress have told us to accept in the post offices of the United States.

This year they sent us a request, which is their estimate of the taxpayer or subsidy required. The bill for fiscal year 1992 was for $649 million; to be exact, $649,301,000.

It is not interesting; it is as if we had the money there automatically to pay this full amount, but we do not. We have to appropriate it from that amount of money that we have for all of domestic discretionary spending. And the President of the United States sends a budget up and he makes sure that he has fit his budget within the cap set for domestic discretionary appropriations. But for this particular account, the administration's proposal assumed a series of major changes in these subsidies for mail. So they requested not the $649 million bill we got from the Postal Service, but they said: We want to spend $183 million.

So the difference, which is a huge number, over $450 million, we are supposed to pay for in this bill, even though we have the same amount of money as the President to spend and the administration has asked for only $183 million.

So what we said is we do not want to underfund the Internal Revenue Service of the Nation; we do not want to underfund the war on drugs. So what could we do that is reasonable to reform the mail subsidy program, and spend less than that $649 million the Postal Service estimates?

We asked some time ago that the Postal Rate Commission take a look at some reforms for us, and they found one that to me seems very rational, and we have incorporated it in the DeConcini-Domenici amendment, which is currently at the desk. If anyone is wondering whether we are supposed to make this kind of change on an appropriations bill, let me suggest this may not be subject to a point of order; it may not be legislation on an appropriations bill. The actual, substantive law says if you do not appropriate the full authorized subsidy amount, all the subsidies will get cut proportionately unless in the appropriations bill you want to protect certain categories of preferred rate mail. So you do not treat them all alike.

That is what we are essentially doing. We found many people are using subsidized rates for very big mailing pieces, like the one I am holding up. They are called flats. But the overwhelming number of people, who are the blind, the Red Cross, the Salvation Army, the Boy Scouts, who are soliciting funds are using letter-sized pieces—and this one is a letter size. It can be as big as the one I am holding up or just the size of a regular letter envelope.

Ninety-five percent of all solicitations by charitable organizations are done using letter size mail. We will not be changing them. Let me repeat: We will not be changing them.

What we are doing is lessening the subsidy on the large mailers, called flats. The Commission told us that, all by itself, would save $180 million.

So for those who are trying to figure out what we have done, the Senator from New Mexico really does not believe the $649 million bill is accurate. I believe they are going to come up with a lower number. The Postmaster has sent us a letter indicating that they will stand by that number for now, but they would like to look at the third quarter volumes to see if they have estimated it right?

So if we use that number and we subtract $180 million and $64 million, which is our estimate of the savings which might be gained through reduced main volumes in response to the last rate increase action—not these increased rates, but the February 1991 increased rates that have gone into effect. Say it will go down about $64 million for the whole thing—add the two together and what you need to maintain current rates is $404 million.

We were able to fund $383 million of that amount in the bill, and we still must go to conference. If the numbers remain right, we will have to find the additional $21 million, and we will come up with the full funding required for the subsidies so that there is no rate increases.

From what I can tell, again, the reform that we have is legitimate. It is bona fide. It is recommended in a Postal Rate Commission report, so we did not just pull it out of the air.

Again, it is very simple to understand. If we get on with passing this amendment, get it to conference and adopt it, we will be giving everybody 2 or 3 months notice, because it will have been law long before it takes effect on the mailing public.

Ninety-five percent of the charitable solicitations, those are the people and the entities we are concerned about, are all done in letter-shape mail size. They will not have any reduction whatsoever. They will continue, many of them, to mail in regular letter-shape mail size. They will receive the same subsidy they now have.

For those who want to go mail items somewhat larger but still be within the letter-shape size, they know they can do so. But if they print the big ones that are almost like notebooks, they will just have to pay a slightly increased, yet subsidized rate.

The reform this amendment proposes to put into law is recommended by the Postal Rate Commission in its July 8, 1991, report to the Congress on its third-class nonprofit mail study.

This reform continues the preferred rate mail subsidy for nonprofit third-class mailers, but only at the level for a letter-sized piece of mail. This reform does not change the subsidy levels for nonprofit third-class mailers if these mailers send letter-sized pieces of mail, rather than nonletter or flat-sized pieces of mail.

This reform will save the taxpayer $180 million in fiscal year 1992 and each year thereafter.

The payment to the Postal Service is the subsidy from the Treasury to make up the difference between the lower rates preferred rate mailers pay and the revenues the Postal Service would have received from regular rate payers in the same mail category.

According to the Postal Rate Commission, third-class nonprofit mailers currently can use about 50 rate categories depending on the shape of the mail piece, the weight, the presort level, the entry point relative to where the mail is destined, and the presence or absence of ZIP+4, and bar codes. Each category has different implicit attributable costs.

The basis of the subsidy is the attributable cost paid on different categories of mail. The higher the attributable cost, the greater the subsidy.

The new postal rate increases which took effect on February 3, 1991, for the first time reflect rate differentials for letter-sized versus flat or non-letter sized pieces of mail. This reflects the fact that it is less expensive for the Postal Service to handle a letter-sized piece of mail. As a result, the Government's average institutional contribution, or subsidy, for a letter is now 3.1 cents. For the average nonletter, it is 7.1 cents—4 cents more per piece on average.

What this amendment does is continue the subsidy for nonprofit third-class mail, but limits this subsidy to the institutional cost of a lower cost piece or mail. In other words, it says that taxpayers will only subsidize each piece of mail at an average rate of 3.1 cents, the rate of the less expensive piece of mail.

Under this amendment, third-class nonprofit mailers are given a choice. The subsidy is not removed. They can either continue to mail flat or nonletter sized pieces of mail and pay the difference between that higher cost piece of mail and the lower subsidy amount for a letter piece or convert their mailings to letter-size and pay no increase.

The Postal Rate Commission notes in its report that 80 percent of all pieces of nonprofit third-class mail are letter shaped. It also indicates that its data for the present study indicates that approximately 95 percent of the mail pieces whose primary purpose was solicitation were letter shaped.

Again, Mr. President, I want to make it clear that this amendment affects only the rates for nonprofit third-class pieces of mail which are not letter shaped. It provides a uniform subsidy amount per piece of mail at the letter rate.

The bill reported by the committee indicates that mail for the blind and overseas voting will continue to be free.

This amendment stipulates that second-class in-county preferred mail shall continue at current subsidized rates. It also provides that third-class nonprofit mail rates currently in effect, with the exception of nonletter shaped mail pieces, will not increase as a result of this appropriation.

We believe the reform we propose is reasonable. It protects preferred rates for those now eligible to receive this benefit. It reduces the cost of this program to the taxpayer. I hope it is one our colleagues will support.

I want to reiterate that if we are worried about rural newspapers, the DeConcini and Domenici amendment expressly says you continue the subsidy as is for 1992; that has not been changed. I have explained the others and what we did change.

I hope the Senate will adopt this amendment, in which event we will leave IRS alone, its modernization and the drug war will be left intact in this bill. That is the best we can do at this time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I just caught on television, the means by which we monitor what goes on over here, the remarks of Senator DOMENICI. I want to rise in support of at least that portion of the amendment that has this concession to rural newspapers.

Let me say, and I speak as a former rural newspaper publisher, I think the issue is much more important than simply that. We talk about the melting pot strength of America, and sometimes we act as though that is some kind of a breeding process where Danes and Germans and people from England and Africa and everywhere else come, and we come together and that is the melting pot strength of America.

The melting pot strength of America is this confluence of ideas, and whatever diminishes the flow of ideas in this country diminishes the strength of America.

What has happened with increased postal rates is that we have discouraged a lot of small magazines and small newspapers. I remember visiting with a newspaper in Paducah, KY, and because of increased postal rates, they had to increase rural subscription rates, and they were telling me what was happening in terms of the loss of rural subscriptions to that Paducah newspaper, what happens when that Paducah newspaper is not circulated as much in rural areas. I will tell my colleagues what happens. Those people are increasingly reliant on television for their news, and we have seen enough of the difficult job the television has in summarizing important issues in 30 seconds to know that that is not a healthy thing.

So I think it is extremely important that we, through subsidies, if necessary, encourage newspapers, magazines, and books, things that spread ideas and opinions. If we want to increase postage on packages of the Postal Service, fine; let us do that. But let us not do anything that discourages the free flow of ideas.

I note the presence on the floor of two people from rural areas, Senator KOHL, from Wisconsin, and Senator KERREY, from Nebraska. To have the people in Wisconsin and Nebraska and Illinois and other States increasingly dependent on television for their news is not a healthy thing for the future of this country. But that is precisely where we are headed right now.

So I am pleased to be here and spend a few minutes in support of the amendment offered by Senator DECONCINI and Senator DOMENICI.

Mr. DECONCINI. Will the Senator yield?

Mr. SIMON. I am pleased to yield.

Mr. DECONCINI. I want to thank the Senator from Illinois, because, quite frankly—and I do not want to speak for the Senator from New Mexico—when we started with even considering not having sufficient funds for the revenue foregone area, we did not fund the subsidized area, as you say, for rural countywide newspapers. Senator JOHNSTON, Senator KERREY, Senator STEVENS, and others on the Appropriations Committee, and others, said we have to find some solution. I said we will find some solution for this. It is not a big money item, No. 1. It is in the neighborhood of $20 million. It is big money to most people, but in this bill, it is not a large amount of money.

We decided that with the changes that we have put in, which are the recommendations of the Postal Rate Commission, we can absorb some $20 million to handle the second-class in-county preferred mail. Just so the Senator knows exactly what the wording is, it says further in the amendment "that second-class in-county preferred mail shall continue at the rate in effect on the date of enactment of this act during fiscal year 1992," which prohibits any rate increase for these in-county rural mailings, which are primarily newspapers.

Mr. SIMON. I want to commend my colleague from Arizona, as well as my colleague from New Mexico for what they have done.

Mr. DECONCINI. I thank the Senator. Quite frankly, a lot of it goes to a lot of other people who said we just cannot do this. I was ready to do it because I just did not have the money.

Mr. SIMON. I withdraw my commendation for the Senator.

Mr. DECONCINI. The Senator can give it to the Senator from Nebraska and others. They are right. Senator BENNETT JOHNSTON really raised it, and Senator STEVENS and others. They are right, I admit that, and I think we have taken care of it.

Mr. SIMON. I thank my colleagues, those who had the idea and those who, like Senator DECONCINI, followed through. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Nebraska [Mr. KERREY] is recognized.

Mr. KERREY. Mr. President, I have been deeply concerned about the Treasury-Postal Service Subcommittee's fiscal 1992 proposal regarding the revenue foregone provision.

The revenue forgone provision is important to a vast number of small newspapers throughout this country and thousands of educational, charitable, scientific, and other nonprofit associations.

It affects the mail you receive from your church, your college or university, your child's Little League or soccer association, the volunteer fire department or rescue squad in your community and the organizations which seek to combat cancer, heart disease, diabetes, birth defects, and other diseases, as well as those organizations which represent the elderly and other groups.

These mailers have traditionally been provided subsidized mailing rates because of a policy decision that the contribution they make to our society merits the benefit. I believe that policy remains as valid as ever as we seek to help those who are ill, to assist the elderly, to guide our children in the proper direction, to support our cultural heritage, and to expand our educational opportunities.

And, in an era of ever-expanding electronic media, it is vitally important that we preserve those newspapers which not only can offer an alternative view, but can also provide us with more indepth information and greater detail about local happenings.

These organizations which are so much a part of all our communities have already this year—in February—experienced a rise in postal rates, averaging upward of 30 percent. This comes at a time when, as a result of the economy, fundraising efforts are being constrained. As one organization put it, "Just in order to stay where we are, we are having to spend more."

Unfortunately, under both the administration's budget request and the subcommittee mark, there is the possibility that these organizations will have to spend yet more than that.

For fiscal 1992, the Postal Service requested $649 million for revenue for-

gone. The administration included in its budget $183 million, and recommended a number of reforms which it had to know were unlikely to be adopted. No legislation has even been introduced to accomplish these reforms.

The House included the full $649 million request. Because of budgetary constraints, however, the subcommittee recommended only $383 million. According to figures provided to me, this could result this October in an increase of as much as 12 percent in the postage rates for second class in-county newspapers and as much as 20-25 percent in certain third-class categories.

An increase 3 months from now on top of the increase last February is simply too much.

We ask the organizations affected to do a lot for us. They have sought to cover some of the funds and services lost over the past decade as a result of cuts in Federal spending.

Two major increases in a short time span—one of them, the current one, being unanticipated—not only exacerbates their task, it seems unfair.

I have drafted an amendment to this bill to restore funding for revenue forgone. I am not particularly happy with the amendment. I have had to make some assumptions about the actual needs in the revenue forgone account. Many people believe that with mail volume down and a change in the flat rate that a lesser appropriation is needed. The Postal Service stands by its estimate. That makes it difficult. In a tight budget year, we can ill afford to tie up money in a program where it may not be needed.

I am also not happy because there would have to be a reduction in other programs. Those are never easy.

But, we have to make choices. And, today, I think the choice has to be in favor of the in-county newspaper and of our charitable, educational, and religious organizations. Helping these organizations in a year when they have already had an increase in postal rates which are a large part of their operating expenses is more important to me than more Federal lawyers and accountants and postponing for a short time some of the modernization proposals which are in this bill.

I do appreciate the statement of the distinguished Senator from Arizona. In truth, in response to some concerns, the Senator from Arizona and the Senator from New Mexico are looking for a way to do what they wanted to do in the first place. They deserve a great deal of credit for seeking a solution. As the distinguished Senator from Arizona knows, I have an amendment I am prepared to offer that would take money from the Internal Revenue Service and use it for revenue foregone. It may not be necessary to offer that amendment. Indeed, it might be advisable for me to cosponsor his amendment because, if the $180 million in his amendment does the job, then it would appear that in conference committee we can get relatively close and that we can have the problem of revenue foregone solved, particularly as it affects rural newspapers and other nonprofit organizations that would be adversely affected.

Again, I say for emphasis, that the adverse impact of the subcommittee proposal is something that was measured carefully by the chairman and ranking member. It is as a consequence of their awareness of it that they offer this particular amendment.

I have some questions about the amendment. I received the Postal Rate Commission's report relatively late, and I am trying to ascertain whether I should support the amendment or even get ahead of the train and cosponsor it and take credit for its genius.

I wonder if either the distinguished Senator from Arizona or the distinguished Senator from New Mexico would tell me how they selected the basic subsidy as the preferred course of action?

I note that the PRC, though—again, I have not read the detailed report—discusses several options—the new subclass option and restriction on content and several other options as well. If the object is to try to narrow the subsidy and make distinctions and move those distinctions outside the range of subsidy, I would be very interested to know what the thought process was in selecting option No. 1.

Mr. DECONCINI. If the Senator from Nebraska will yield, I will be glad to attempt to answer that for him. We did not go into the content. Quite frankly, we felt we were already involved in an authorization process that rightfully should be reviewed by the Governmental Affairs Committee, which I think they have agreed to do, in the whole area of postal rates and all classes of subsidies.

So the reason we chose this particular one is because it was one of the recommendations from the Postal Rate Commission, and it gives an option to the mailer. If the mailer wants to continue to receive the subsidy, they only have to change their mail size. They do not have to do anything else. So they still have the advantage of that subsidy, but, as has been pointed out, they cannot use the flat mail or they will have to pay that additional cost themselves. That, in my judgment, was the primary reason to use this particular recommendation.

Second, it reduces the need by $180 million with what I think is a credible source of reform, having gone through the categories and the Postal Rate Commission report and assessing all of these costs. It is a large amount and would maybe keep us from having to argue on how much to take out of the IRS.

Mr. KERREY. Personally I think it is an attractive thing to try to avoid the content distinction. Is the distinguished Senator from Arizona suggesting that other options presented by the PRC can still be considered by an authorizing committee? It is not as if we are making a final determination; we are simply looking at one and trying to make a reasonable judgment about whether or not it would be something that would be good policy for the country.

Mr. DECONCINI. If the Senator will yield, that is exactly correct. We are not adopting or rejecting all of the Rate Commission's proposals. We are only saying that this one addresses the problem we have today and that we ought to adopt it now instead of waiting because of the circumstances we are in at this time. We do not have the funds, in the view of the full committee, to fund revenue foregone at the level requested, or at the level the Senator from Nebraska thinks is necessary.

Mr. KERREY. I want to ask the distinguished Senator from Arizona if my understanding of another matter is correct. The language of the amendment which the distinguished Senator from Arizona just read to the distinguished Senator from Illinois, specifically says that rural weekly newspapers will continue to get their subsidy. Is this something that in fact we can count on the Postal Service having to carry out? Is there any chance that even with the language of the law they would come back to us and say well, we just did not have the money. Could they come back and say that even though the law specifically mentioned them, we had to drop the subsidy that is available now for rural weeklies?

Mr. DECONCINI. If the Senator will yield, let me address that issue because it is always possible. As far as the second class—and that is the category for the in-county rural papers that we are talking about, which is different from these 3rd class mailers, of letters or flats—we are talking about a figure in the neighborhood of $20 to $23 million at tops, so we are not talking about a large amount of money.

But the Senator asks a very good question, a very fair question. Our prohibition here says they shall not raise the rates in 1992, but what if the Postal Service cannot make their payroll costs? They have to do something.

What our amendment says is that the Postal Service can reconcile those shortfalls out of next year's appropriations, which means we would have to address that issue next year in fiscal year 1993. But it ensures in fiscal year 1992 that there will not be an increase for those rural in-county mailings, primarily newspapers.

Mr. KERREY. I appreciate that, Mr. President. That helps a great deal. It seems to me that what the distinguished Senator is saying is that with the language in this amendment, it

would be not only difficult but almost impossible for the Postal Service not to provide the second class subsidy to the in-county rurals. And it seems to me that the Postal Service has the opportunity in this language to continue the payroll if they are short; they will be able to get the revenue out of next year. It seems the distinguished Senator from Arizona has allowed in the amendment a considerable amount of flexibility for the Postal Service.

Mr. DECONCINI. If the Senator will yield, we wrote this to be as firm and ironclad as we could. It says the second-class in-county preferred mail shall continue at the rate in effect, when this law, the one before us here, is enacted, during fiscal year 1992. So unless they jump that rate between now and the signing of the bill by the President, which is a possibility, although we do not have any indication that that is going to happen and as a matter of fact, the Rate Commission was in my office yesterday and they indicated that was not going to happen, then that would not be a problem. If something happened during fiscal year 1992 where they just dumped all of their losses in this little area of second-class in-country rural mailings, then, the amendment says, they have to reconcile that with next year's appropriation, which means they have to come next year to get the money for the losses that were incurred in this particular year, which would be fiscal year 1992.

Mr. KERREY. I appreciate that. It would be better if we actually had the revenue, but it does seem to me that the distinguished Senator from Arizona has provided about as much protection as possible. We do not control the decisions of the Postal Service nor, I suggest, have a great deal of influence over how they are going to vote.

With that one caveat, it seems to me the distinguished Senator from Arizona has provided a sufficient amount of protection for the second-class subsidy for the rural county weeklies.

If I could, Mr. President, I would like to focus a little bit on the basic B subsidy. I apologize for not being here during the presentation of the case and how its impact would be felt by mailers. As I understand it, in your amendment we are essentially equalizing the subsidies for flats and for letter size. We are essentially saying we will equalize the subsidy and that, in turn, should encourage better behavior because it will reward mailings that are more efficient and lower cost. Is that essentially the case that is being made by the distinguished Senator from Arizona?

Mr. DECONCINI. If the Senator will yield, that is exactly the case we make. Let me just give the Senator an explicit example, which I think the Senator already understands, maybe everyone does who is listening in their Senate staff offices.

This is a letter item. This is letter size. Anything this size goes out at a subsidized rate today. This is also a letter. This is a catalog from a college. That is a letter size.

Now, these are what are called flats. They contain sometimes the same pages, not as condensed but they cost 4.4 cents more than the letter size does. And they are both subsidized now.

We are saying that flat no longer will be subsidized at the same rate as a letter. If you want to mail this size, a flat you are going to have to pay the difference. This one you are going to still get the same subsidy, which will obviously encourage people to shift from flats to letters unless they want to mail something larger, and it is of such promotional value that they want to go ahead and do it. So the Senator is correct in his statement that both of these are subsidized.

Here is another flat that is used and mailed out that is subsidized. They can still do that. Only if they want to get the present subsidy, they are going to have to reduce it to letter size. I hope that answers the Senator's question.

Mr. KERREY. It does answer the question I had.

To go a little deeper into the problem, what sort of profile of nonprofit organizations are we talking about that will be affected? Are there barriers to cutting down to letter size that I might—I see the distinguished Senator is referring to the report itself. It may be that I can simply reference it and not tie up additional time.

Mr. DECONCINI. If the Senator would turn to table 10, it starts after page 9 here of appendix B of the Postal Rate Commission's report, that may be of help to the Senator from Nebraska. But if the Senator looks through table 10—if the Senator can find table 10, he will see there the shape used by different types of organizations. He will see here religious, letter shape, which is this letter size, 17 percent; philanthropic, 14 percent; vocational education, 8 percent; medical health, 10 percent. The other shapes, which means the flats primarily, but there could be packages as well, are reflected there also.

So 80 percent of the subsidized mailing that goes out already under this third class, which includes both of these two comparisons, 80 percent of all these mailings that go out are letter size now. They are subsidized. They continue to be subsidized under this amendment. Twenty percent that now go out are flats. Now they are subsidized, but after this amendment they will not be subsidized at the same rate as letters. So it will encourage people who want the present subsidy to convert to this letter size.

Mr. KERREY. Again, I ask the distinguished Senator from Arizona, is there any way I can look at the catalog and get some sense of whose rates are going to be raised?

Mr. DECONCINI. Excuse me?

Mr. KERREY. I was asking the distinguished Senator, Mr. President, if it is possible for me to look at the report of the PRC and get some specific sense of whose rates might be raised under this particular proposal?

What I am trying to do, Mr. President, is get some sort of impact analysis of the possibility of change in the catalogs and the difficulty of change in the catalogs. Some organizations will be able to change quickly, and some may have more difficulty—I am just trying to get a sense of who might be impacted here.

Mr. DECONCINI. I am afraid I cannot tell the Senator that, except that 20 percent of these items that are now subsidized, these two together, the flat and the letter, 20 percent of them are the larger ones, flats. Though they will still be subsidized, they are going to have to pay the difference between today's subsidy and what it will cost when you take that away, which is roughly 4 cents.

I cannot tell the Senator how much it costs to print this one versus the other, or if you wanted to continue to print the flat and mail it; I do not know.

I can tell the Senator that 20 percent of those who are mailing now are using the larger one. You can understand why. I am surprised it is not greater, because it costs no more to mail. It costs more to print it, including the paper, and whatever you want to put into it, but it costs no more to mail it at present.

I can only conclude that some people will convert, because they want to save the money. Others will also save money in the printing and the amount of paper used. I do not have a financial figure for the Senator. I would be glad to share it if I did. I would be glad to include one in the RECORD if I can get one.

Mr. KERREY. Mr. President, I say to the distinguished chairman of the subcommittee, I think that really would be unnecessary. I am just trying to get a general sense of the impact on specific mailers.

Looking at table 10, I can see why option Y is attractive to the chairman. That is a surprisingly low number from all of the shapes from these organizations, and it gives one the sense that a conversion might be relatively easy.

But I am aware, Mr. President, that doing a setup for a printing piece has a substantial amount of cost. Perhaps the former publisher, the distinguished Senator from Illinois, can give us some sort of a sense of the impact of current changes like that. There are setup costs and cutting costs, and I know people make investments in art work and all that, and for a small organiza-

tion, it might be difficult to make the conversion. I am trying to get a sense for that.

I must say to my colleagues who are listening that table 10 is a persuasive for the case of the Senator from Arizona. It seems to indicate that the amendment being offered would have a relatively benign impact.

I ask the distinguished Senator from Arizona, do we have any kind of response from the Postal Service itself to indicate how they might feel about this particular issue?

Mr. DECONCINI. Mr. President, if the Senator will yield, the only response I know of comes from the Postal Rate Commission, I do not know if the post office, per se, has taken a position. Although I understand the Postmaster General has just sent us a letter. I have not read it, but I will be glad to look at it and see what he says about it. I do not know.

I wish I knew what the cost was. I think each organization is going to face a couple of financial decisions. Do we want to continue to pay 4 cents and send the flat out, or can we save some money by reducing it, and not only save 4 cents, but no longer have to pay the difference between producing flats and letters, if you can make the necessary changes? I have seen university catalogs this size. I have seen them twice this size, depending on how much stuff you want to put in them.

Mr. GLENN addressed the Chair.

Mr. KERREY. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator from Nebraska retains the floor.

Mr. KERREY. I appreciate that. I do not need to ask any additional questions, and I will yield the floor momentarily.

I want to make it clear what the issue is. It is really revenue forgone, and trying to find the resources necessary to adequately fund revenue forgone, a very important part of the Postal Service effort.

I will simply say that the mail service has become an enormously important part of the American economy. I will say nothing more than that. I need not add any additional detail, other than to say the impact is rather substantial.

I believe that it may be that the distinguished Senator from Arizona and the distinguished Senator from New Mexico have a very good solution to this problem. With the reduction that we expect to be able to get from the $649 million—it is likely that we will be able to reduce that some—perhaps we can get to the number we actually need in order to cover revenue forgone.

Regarding the possibility of working some of this out in conference, it may in fact be that this amendment will help solve the problem of revenue forgone. And I say, Mr. President, that I appreciate very much the answers to my questions given here by the distinguished chairman of the subcommittee, the Senator from Arizona.

I yield the floor.

Mr. SIMON. If the Senator from Nebraska will yield, and through him I would like to ask a direct question that follows on the Senator's comments to the Senator from Arizona.

Mr. KERREY. It is unusual, but——

Mr. SIMON. If I may have the attention of the Senator from Arizona here. This is fairly obvious, but is there a substantial savings to the Postal Service if you reduce that size?

Mr. DECONCINI. The answer is yes, and the reason is that their method for handling letter size mail is all mechanized; whereas for this size, they have to process it by hand. It takes a lot more people and money to handle whatever you send that is above this letter size. Someday they might have a machine that will take the size of this desk, I do not know. Today, this letter size is as big as they can handle. They supplied us today with what their computer uses to measure the size of the mail. You can see this letter fits within the size that would go through the machine, where, obvously, this one does not; thereby, it has to be processed by hand.

Mr. SIMON. That is a very good answer. I thank the Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I am chairman of the Governmental Affairs Committee, and the Postal Service comes under our jurisdiction. We continually have problems about the rates, what the rates should be. We have hearing after hearing, and we work with the Postal Rate Commission, and the appropriation subcommittee does, also. It is not something that is brand new.

What is new is that this came to the floor so suddenly here, and I was not aware until late last evening that this was likely to be coming up today. There are several options here that we can pursue. One is to let it go, and one is to challenge this on the grounds that it is legislating on an appropriations bill. We can ask for an opinion on that later. Another is to try and find money under another function. And another is to try and work it out in the conference committee with the House. I wonder if we might be able to discuss all these for a few minutes here by putting in a quorum call, and perhaps we can explore some of these privately, if that is agreeable.

Mr. DECONCINI. If the Senator will yield before he puts in a quorum call, I welcome the opportunity to discuss this with the distinguished chairman of the Governmental Affairs Committee. As the chairman knows better than I do, these conferemce committees are aware of how these things are put together. Quite frankly, the Senator's discussion about being legislation on an appropriations bill may be correctly interpreted or it may not be.

But for the sake of discussion right now, let us say it is. The House really raises Cain, and that is why I think if the Senator, the distinguished chairman of the Governmental Affairs Committee, can permit us to go to conference with this, we will work it out.

We did this last year with the chairman and the ranking member on the pay reform bill, as the Senator will recall. I went so far as to offer the chairman a membership on the conference committee. I was beyond my bounds as I found out very quickly, but we worked with him and his staff on a day-to-day basis, and we went through the conference quickly. Frankly, we could not have raised the pay for the postal workers and pay reform for the general government without the Senator's approval.

Mr. GLENN. Mr. President, I understand that and thank him for that consideration.

I am mindful of all the floor debate when we start dealing with postal rates. You get into a hornet's nest as fast as anything.

I do not know of anything that got us in more trouble with the Postal Service in a shorter period of time back some years ago when the Postal Service was going to combine a lot of post offices into a centralized function and eliminate losses. There were local post offices in small towns, and the Senator can remember the firestorm on that. I tell the Senator the post office and around the flag outside of the post office is something that is looked at almost as an identity, without which some of the towns feel they cease to exist an an entity in this country.

I am not making light of the concerns of mailers that are concerned about this situation because they run their budgets and most of these are charitable organizations, religious organizations. They are organizations that operate on a very, very thin budget to begin with, and postal matters and mailings which are a large part of some of their operations comprise a large part of their budget.

When you say they are going to change their rates, it may only be 4 cents to us here, referring to a certain piece of mail that is going out, but multiply that by several hundred thousand in their operation and it really runs the cost of their business up and down tremendously. So it is not something we can take lightly.

I think the fact that this came to the floor here suddenly, and I was not aware of it, I think we really need to look into this. I hope we can make some accommodation here.

Mr. DECONCINI. Mr. President, will the Senator from Ohio yield?

Mr. GLENN. Yes.

Mr. DECONCINI. I think the Senator from Ohio makes a very good point, that we should not take this lightly and, indeed, I do not.

Mr. GLENN. No.

Mr. DECONCINI. I wish I were not here, once again, as I was with the pay raise last year discussing these things with the Senator. But if you take the religious organizations, according to the Rate Commission's review, only 2 percent of all of the large mailings, the so-called flats, are used by religious organizations.

Now they can still mail it, but they are not going to get the same subsidy for this size as they would for letter size anymore. So if they convert this flat, say, to this letter size, then they get the full subsidy. So it is going to—and I do not take it lightly at all—cause them to make a decision either to raise more money or to expend more of their resources to make the mailing or to convert the size. If they convert, then they get the full subsidy and they lose nothing except the cost of converting.

That is true in the other categories as well, which is one of the reasons for the Senator to understand why we even focused on this particular reform. When we looked at it we felt that because only 20 percent of the mailings went out as a flat, though it is serious to those 20 percent, it was rather small in comparison to the amount of money we could save here and thereby prevent perhaps invading some other areas of this bill, particularly the IRS, which I know is the target of several other Senators.

Mr. GLENN. I knew the IRS was going to be targeted, I understood that anyway, if we could not work this out. I did not want to see that because I have worked for several years now on the Governmental Affairs Committee members just to get IRS pumped up to where we thought they were going to do a decent job in their computerization of things and new agents that earned back about 5 to 1 on their keep when we establish a new agent.

We have just gotten those things back up to at least the level and now talking about cutting them to provide revenue forgone over laws in the same funds. It does not make any sense. That is the reason I opposed that one also. I feel certain of how Commissioner Goldberg feels. I was not in the office. He contacted the office this morning. He does not think much of that idea either.

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

The PRESIDING OFFICER (Mr. LIEBERMAN). 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 speak for 4 minutes as in morning business for the purpose of introducing legislation.

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

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH and Mr. PACKWOOD pertaining to the introduction of S. 1453 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WIRTH. Mr. President, I yield the floor and, 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. DIXON. 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. DIXON. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as though in morning business.

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

THOMAS F. ROESER AND THE QUAKER OATS CO.

Mr. DIXON. Mr. President, I rise today to honor a great Illinoisan and American, Thomas F. Roeser, vice president for government relations for the Chicago-based Quaker Oats Co. Tom will retire from active service with Quaker Oats this August first. I want to recognize Tom's many contributions to Chicago and Illinois government, politics and civic life, and to acknowledge his effective advocacy on behalf of the Quaker Oats Co. in Washington, in Springfield, IL, and in other State capitals.

Tom Roeser's civic affairs leadership is not limited to oatmeal or gatorade, wonderful products though they may be. Tom initiated Quaker's leadership in urban affairs back in 1967 by founding a tutoring program for the benefit of the children of the Chicago Public Housing Authority, and the program flourishes to this day. Tom also established an innovative, community-based nutrition education program on the south and west sides of Chicago, directed by Mrs. Velma Dixon, and he developed a minority enterprise training program designed to assist owners, operators, and employees of retail food stores, which is conducted by the Chicago Cosmopolitan Chamber of Commerce. His involvement led to his appointment as the first Director of the U.S. Commerce Department's Office of Minority Business Enterprise in 1969, and later as Director of Public Affairs for the U.S. Peace Corps.

For years, Tom Roeser has served as the chief volunteer and president of the City Club of Chicago, overseeing important studies on municipal and State issues of great importance to business, education, and public finance. The City Club's forums and public meetings have given those of us in public life opportunities to present ideas, advocate solutions to public problems, and test public options and concepts in the Chicago area.

As a writer and broadcaster commentator, Tom Roeser has contributed to public discourse on politics and public affairs with insight and humor, and now and then a barb or two. His interests over the years have ranged from the right to vote at age 18 to a third airport for Metropolitan Chicago.

I salute Tom Roeser and his longtime association with the Quaker Oats Co. and its civic affairs programs. Tom will continue as a consultant to Quaker Oats, and will conduct public affairs programs and advocacy for a number of clients from offices on North Michigan Avenue. We can depend on Tom to keep the political dialog lively and interesting.

It is truly an honor and a privilege to represent fine Illinoisans like Tom Roeser.

Mr. President, I say to a doggone good Republican, Thomas Roeser: "Tom, the best in everything you do."

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. GLENN. Mr. President, it is really difficult to follow the distinguished Senator from Illinois on the floor because one thing he does not do is lack for enthusiasm. I always find it difficult to follow him on the floor.

But I rise again, Mr. President, to address the matter of the postal revenue forgone and how we are going to come up with these amounts of money that we discussed earlier during previous debate.

After consulting with the floor managers of the bill, I think probably the best we can do today is to not go ahead and challenge this as legislating on an appropriations bill, which I thought might be one option here, and that might carry. But it also might be voted down and leave us in a worse position than we are right now in going to conference. So that is of some concern.

I also would not like to see the IRS function cut back, because we have spent some 5 years getting more money into IRS so that we can do a better job on collecting the proper amounts that should be collected from those who owe it to the Government. And so we do not want to cut back on that.

The House, I would note, has full funding in this bill without having to change revenue forgone. And after discussing this with the floor managers of the bill, I believe they would agree that they will do everything they possibly can to work with us in this interim period between now and when the conference agreement is made to see if we cannot come up with some better arrangement here than just the change that we have in this bill or the first option of going to the IRS for money, or another option is to go to the House and try and make in conference an accommodation some way to come up as close as we can to their figures, which is full funding without changing revenue forgone.

If we have that kind of an assurance, Mr. President, I think the best thing we can do in this situation is to agree that is what we will all work toward and hopefully we can work this out between now and when the conference action is completed.

I would appreciate any comments the floor managers might make in that regard.

Mr. DOMENICI. Mr. President, I thank the distinguished Senator from Ohio, the chairman of the Government Operations Committee. Senator ROTH is the ranking member of that committee and Senator STEVENS is the ranking member on the subcommittee that handles post office matters.

But with Senator GLENN commenting as he has, and Senator STEVENS indicating that we ought to proceed today with this, seeing if we can do better between now and conference, I want to thank Senator STEVENS, who met with us before, and say to Senator GLENN I appreciate his remarks and I understand how difficult this issue is.

From my standpoint, for our side, we will try our best to work with him and his committee as this process moves its way along and hopefully we can do something before we finalize this matter in conference that might be more acceptable, as he has explained here on the floor.

Having said that, I just want to make three points. The DeConcini-Domenici amendment which we are going to ask the Senate to vote on will keep all of the rural newspapers exactly where they are. So if Senators are concerned about the small, rural newspapers and an increase in postal rates, that will not occur.

Second, there is express language that says the blind and their mailings will not be affected. They will be affected in no way. They will remain exactly as they are now.

Third, all subsidized mail that uses letter-sized mailings, letter-sized envelopes or mailings, will not be changed. The only ones that will have an increase—and they will be subsidized, but they will have an increase—are those so-called flat mailers.

Those are the very large catalog-type mailers. They are growing in quantity. And we think, of all of the suggestions, that is the most reasonable one, to let them get less of a subsidy so we can continue the subsidy for the others.

I thank the Senator from Ohio [Mr. GLENN] and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I join the Senator from New Mexico in thanking the Senator from Ohio for his willingness to go along with this. I understand his concern, and I will work with him, as the ranking member will, as we go through this process, both here and in conference. We have a very excellent relationship, as I said before.

Last year, we had attached to this bill an amendment by myself and the Senator from New Mexico dealing with wage increases for Federal employees, and a second one dealing with Federal law enforcement, which was in the jurisdiction, clearly, of the Governmental Affairs Committee.

Senator STEVENS, Senator ROTH, and the distinguished chairman, Senator GLENN, agreed to let us go ahead and proceed with this. We agreed, in turn, first of all to even put them on the conference committee. We had to change that. But we agreed to work with them on a daily, hourly, almost minute-by-minute basis as we negotiated this in the conference. We did that. I think the Senator was satisfied that he and his staff were included in all those negotiations and had the opportunity to signed off.

We will continue to work with him here. We have to go to conference with this bill. There is a lot of disparity between the House version, which has already passed, and what we think will pass here.

Revenue foregone is only one of those areas. IRS is another. The GSA account is another. The office of the executive branch is another. We have to deal with all of those, and as we deal with the revenue foregone, we will certainly work with the Senator from Ohio and his staff and keep them advised of what we are doing.

The PRESIDING OFFICER. Is there further debate?

Mr. DECONCINI. 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. SIMON. 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. SIMON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

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

SOUTH AFRICAN SANCTIONS

Mr. SIMON. Mr. President, I would like to comment on lifting of sanctions with South Africa. All of us applaud what has taken place in South Africa in terms of what the leadership there has done. President De Klerk has shown great courage.

I do believe, for two reasons, the action taken by the President was a bit hasty, as this morning's New York Times editorial indicated. I think we would have been wiser to take the same stand that Canada and some other countries have taken, and that is to continue with sanctions until serious negotiations take place. I think it is a mistake for two reasons.

No. 1, there is a serious question whether the law has been complied with. The African National Congress says there are 942 political prisoners in South Africa. They say this does not count political prisoners in the so-called homelands. I have no way of judging whether their statement is accurate or not accurate.

But I think before the United States assumed the statements of the South African Government were correct, we would have been wise to have Amnesty International or some other group take a look at that.

The second concern I have is, frankly, Mr. President, up until this point, we have had a very good working relationship between the State Department and the Subcommittee on African Affairs, which I have the privilege of chairing, in terms of working together, whether it is the Horn of Africa; whether it is South Africa; whether it is Angola; whether it is the Liberian situation. This is a departure from that.

I think, insofar as possible—whether it is Africa; whether it is the Middle East; whether it is Asia—where you can have Congress and the administration working together, it is better to have that working together. That does mean, sometimes, some compromises, some giving on both sides. That was not the case here.

Several of us met about 10 days ago with Assistant Secretary of State Herman Cohen in my office, and suggested that sanctions not be lifted until substantial negotiations take place. I think the administration would have been wiser to hold on until that point.

The President took the viewpoint that, well, he was opposed to sanctions when they were initiated, and obviously was eager to lift the sanctions at the first opportunity. This is not fatal to what is happening in South Africa. I think serious negotiations will continue, but I do not think the action that was taken is helpful.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2622, the Treasury Postal appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $476 million and its 602(b) outlays allocation by less than $1 million.

Section 104 in the Department of the Treasury general provisions prevents the imposition or assessment of certain taxes. This provision would have the effect of decreasing revenues by less than $500,000. If enacted into law, this shortfall would score against the pay-go scorecard.

I compliment the distinguished manager of the bill, Senator DECONCINI and the distinguished ranking member of the Treasury-Postal Subcommittee, Senator DOMENICI on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Treasury Postal appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2622; TREASURY POSTAL SUBCOMMITTEE—SPENDING TOTALS

[Senate reported; in billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2622		
New budget authority and outlays	19.2	17.1
Enacted to date	.1	3.4
Adjustment to conform mandatory programs to resolution assumptions	.2	.5
Scorekeeping adjustments/PLR's	0	0
Bill total	19.5	21.0
House 602(b) allocation	19.9	21.0
Total difference	−.5	
Discretionary:		
Domestic	10.5	11.2
Senate 602(b)	11.0	11.2
Difference	−.5	
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	0	0
Senate 602(b)	0	0
Difference	0	0
Total discretionary spending	10.5	11.2
Mandatory spending	8.9	9.8
Mandatory allocation	8.9	9.8

SENATE BUDGET COMMITTEE SCORING OF H.R. 2622; TREASURY POSTAL SUBCOMMITTEE—SPENDING TOTALS—Continued

[Senate reported; in billions of dollars]

Bill summary	Budget authority	Outlays
Difference	0	0
Discretionary total above (+) or below (−):		
President's request		.1
Senate-passed bill	NA	NA
House-passed bill	−.2	−.3

Note.—Sec. 104 of this bill has the effect of decreasing revenues by less than $500,000.

Mr. DECONCINI. 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. 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.

Mr. DECONCINI. Mr. President, we are about ready to commence a rollcall vote on the DeConcini-Domenici amendment dealing with revenue foregone. Just to summarize for the people to understand what this amendment does, in the bill before us, there is roughly $383 million set aside for revenue foregone. That is substantially less than what the Postal Service says is needed. Their figure is some $649 million. It is substantially more than what the President requested. The President requested roughly $183 million. The committee tried its best to come up with additional funds, and we came up with $383 million.

The amendment before us, in essence, does three things: One, it institutes a direct savings by changing the subsidies of flats versus letters of $180 million. That means a $180 million less is necessary to fund the revenue foregone account to subsidize those mailings on top of what is already in the bill, which is $383 million.

Second, it specifically states that the rates for second class in-county preferred mail, which are the rural in-county newspapers, will remain as they are today, or as it is on the date of enactment into law of this particular bill before us, at the same rate as fiscal year 1991, for all of fiscal year 1992. So the rates for those groups will not go up unless they go up in the next 3 weeks, and there is no proposal for that to occur.

Third, there are additional funds that most likely will be available for the revenue forgone. In the past, when there have been changes in mailings, as there are here, there is anywhere from a 2- to a 10-percent reduction in the use, at least for a certain period of time. So we are taking out of the Postal Service's estimate of $649 million an estimated $60 million, less than 10 percent. So we are increasing what is available for the revenue foregone account with the Domenici-DeConcini amendment by roughly $240 million above what it is in the bill.

I think it is a workable solution. It gets us to conference with some disparity, but a sizable increase in the revenue foregone. I think it also answers the problem, as the Senator from New Mexico so well pointed out, about the rural newspapers. We listened to our colleagues. We heard their arguments as to the communication necessity in these areas of rural America, and we fixed it. We fixed it completely so there will be no change in those rates.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder if the Senator, before we call for the vote, will yield to me?

Mr. DECONCINI. I yield the Senator as much time as he likes.

Mr. DOMENICI. Mr. President, I concur with the chairman of the subcommittee, my friend from Arizona, Senator DECONCINI. Let me summarize and tell the Senate why we are voting. When we left the subcommittee markup and then went to the full Committee on Appropriations, we had no way to propose some reform in the subsidized mail program, the revenue foregone program, because we did not have a report from the Postal Commission that we had asked to study this issue and give us some valid and viable reforms.

So what we reported and what is pending at the desk is a funding of revenue foregone, or mail subsidy, that we really do not like, but we had no alternative. So what we now are doing is offering an amendment that dramatically improves what is in the bill. We think Senators ought to have a chance to vote on it because it does three very good things and still comes very close to meeting the subsidy that is required by the Postal Service from the general taxpayers' appropriations.

First, it defines and says any mail by the blind associations is absolutely untouched. It remains as is. Whatever the subsidy, no change. Second, it says all rural newspapers, no change. Third it says all subsidized mail that is carried in letter-size envelopes remains as is. We are not changing it, we are not expanding it, we are not making it less, so long as it is mailed in letter-size envelopes, as defined by the Postal Service. So everyone will know, when I say "defined by the Postal Service"—in fact, it is larger than what one usually thinks of as letter-sized, but it is called letter-size because it fits all the automation machines.

What is changed, and the only thing being changed, is if you are using bigger mailouts than letter-sized, you will get less of a subsidy because there is no way that kind of mail fits through our automation process and it costs a lot more to handle. We are saying do not subsidize those more costly pieces of mail as much as we have been. Make

them pay more of their costs. Subsidize at one uniform rate which reflects the subsidy for the lower-cost price of mail.

So, in a nutshell, everything remains the same, except for mailers that are larger than letter size, and they will pay somewhat more than they have been paying. By doing that, we have saved $180 million on what otherwise would be subsidized. We assume that the overall rate changes that are already in effect are going to lessen the demand, and we take credit for savings there. That is it.

We think the Senate ought to adopt the amendment.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment, No. 732, to the committee amendment on page 20, line 7. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—98

Adams	Ford	Metzenbaum
Akaka	Fowler	Mikulski
Baucus	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Bradley	Grassley	Pell
Breaux	Harkin	Pressler
Brown	Hatch	Reid
Bryan	Hatfield	Riegle
Bumpers	Heflin	Robb
Burdick	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Seymour
Conrad	Kennedy	Shelby
Craig	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Smith
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wellstone
Domenici	Mack	Wirth
Durenberger	McCain	Wofford
Exon	McConnell	

NOT VOTING—2

Pryor	Specter

So the amendment (No. 732) to the committee amendment on page 20, line 7, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask that the pending business be moved to the next order of business.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. There will be order in the Chamber.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I yield to the Senator without losing my right to the floor.

Mr. DECONCINI. Mr. President, I urge adoption of the committee amendment.

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

The committee amendment, as amended was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I urge consideration of the next excepted committee amendment.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 59, LINES 7 AND 8

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 59, lines 7 and 8 insert "rental of conference rooms in the District of Columbia and elsewhere,"

Mr. DOMENICI. Mr. President, I promised the junior Senator from California [Mr. SEYMOUR] that he could have 5 minutes, and he has been waiting for about an hour. I wonder, without the Senator from North Carolina losing his right to the floor, if he could have 5 minutes as if in morning business.

Mr. HELMS. Yes.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator SEYMOUR be permitted to speak as if in morning business for 5 minutes and thereafter the floor be returned to Senator HELMS as if we had not interrupted him.

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

The Senator from California is recognized.

Mr. SEYMOUR. I thank the Chair.

(The remarks of Mr. SEYMOUR pertaining to the introduction of S.1454 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

Mr. HELMS. I thank the chair for recognizing me.

AMENDMENT NO. 734

(Purpose: To make it a federal crime for a doctor, dentist or other health care professional who has AIDs and knows it to perform invasive medical procedures without informing the patient)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration and ask that it be stated in full.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislation clerk read as follows:

The Senator from North Carolina [Mr. HELMS] for himself and Mr. THURMOND proposes an amendment numbered 734.

At the end of the Committee Amendment on page 59, line 8, add the following:

"Hire of passenger motor vehicles $3,468,000; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General.

"Title 18, United States Code, is amended by adding at the approprate place the following new section:

"SEC. . DELIBERATE TRANSMISSION OF THE AIDS VIRUS.

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than $10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available."

(c) DEFINITIONS.—As used in this section—

(1) the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional adminstering the procedure.".

Mr. HELMS. Mr. President, first let me emphasize that the distinguished Senator from South Carolina [Mr. THURMOND] has asked to be a principal cosponsor of this amendment, and I appreciate that.

Second, this may be the first of several efforts to have the Senate approve this amendment. I am glad I am finally in a position of getting a vote, which is what I have been seeking all along.

As I said last night—even though there were efforts by some Senators who had declared that Helms will not get a vote—Helms is going to get a vote, and that will happen quite shortly.

I ask for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Well, we will try again when enough Senators are here.

Mr. DOLE. 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. HELMS. I thank the Chair.

It is tough to get a vote around this place.

Mr. President, I am going to begin by reading a letter that most of us I hope are familiar with. It was published in the July 1 edition of Newsweek and it has been published a number of places, and I have, I guess, two or three dozens copies of it in my office. It was written by a once-beautiful young lady, physically and spiritually. She no longer is physically beautiful, as she will descibe herself. Her name is Kimberly Bergalis of Fort Pierce, FL.

The Newsweek version of this letter had the headline: "I Blame Every One of You Bastards."

Newsweek said as a prelude:

Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.

Here is the letter:

When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea, I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

I was infected by Dr. Acer in 1987.

I would say, parenthetically, that this was her dentist. Then she continues:

My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your fingers and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skelton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

I'm dying guys. Goodbye.

That was the letter from Kimberly Bergalis.

Four or five times in the past 2 or 3 days, I have stood on this floor trying to get a vote on the pending amendment. And every effort possible was made to block it. I said last night that I want to get a vote, and I am going to get it. During my previous discussions, I referred a number of times, Mr. President, to the thick file of newspaper clippings that I have from my own hometown paper in Raleigh, Washington papers, the Newsweek magazine, and others.

Every one of those articles describes in graphic detail the physical and emotional suffering of hundreds of Americans who have been unknowingly exposed to AIDS by doctors and dentists and health care workers who know that they are carriers of this deadly virus. That is what this amendment is all about.

I became aware of the case of Kimberly Bergalis, a 23-year-old young Florida woman. She probably will not be alive a week from today, if that long. But the last few months, as Kimberly said in her letter, she has suffered the tortures of the damned, not through her misconduct, but through the total irresponsibility of a dentist, a member of the medical profession; a dentist who knew that he had AIDS but he refused to notify his patients about it. He treated 1,700 people after he found out he had AIDS.

I mentioned last night that Lawton Chiles, one of our former colleagues here in the Senate, now Governor of Florida, went to see Kimberly Bergalis this week. And Lawton was obviously deeply touched, and made this statement to the media following that meeting.

He said:

It's a lot like being in the presence of a saint. I told her how much I admired her. I told her I thought she had already protected many lives that wouldn't have been protected before.

I hope Lawton Chiles was right about that, because I hope the U.S. Senate and the House of Representatives and every other legislative body in this land will take steps to make certain that this kind of thing stops.

I might add, parenthetically, that this is striking everywhere. There is a little community, 8 or 10 miles outside of my hometown of Raleigh, NC. Sometime back, a native of that community who became a dentist went to San Francisco, where he had a lover, another man. Then all of a sudden, he came back home, and he was planning to bring his lover with him. But he could not come right at that moment. His parents set up a little dental office for him in that little community. He was awaiting the arrival of his lover, but the lover never arrived because he died of AIDS before he could get there.

This dentist told nobody anything about it; nothing. Not a soul. And he treated at least 800 patients. Finally, a form letter was sent to about 800 patients. But it was a little bit late. Two days after the letter was mailed, he died of AIDS. That is the threat we are living under.

About this amendment and whether it is something that the American people want and need, back in June, less than a month ago, there was a Gallup Poll precisely on this question. This poll found that 95 percent of the American people believed that surgeons who know that they have AIDS should be required to tell patients if they are infected with the AIDS virus. The same poll found that 94 percent of Americans believe that all physicians and dentists should be required to tell their patients that they have AIDS, that they, the physicians and dentists, have AIDS.

The story of Kimberly Bergalis, down in Florida, is not isolated by any means, and unless this Senate faces up to its responsibility, there will be a multiplicity of such cases, maybe even if we do nothing, because we have sat on our hands and bowed to the homosexual lobby time and time again when this Senator and others have stood on this floor pleading that something be done about these people who are responsible for the spread of AIDS.

I have been condemned and criticized, and that is fine. I appreciate being condemned and criticized by these people. I am reminded of what a friend of mine told me on one occasion about the day that he was in a taxicab coming from National Airport to my office. He stopped before the Archives Building, stopped right there, and my friend saw the words etched in the marble saying, "What is past is prolog." He thought he would have a little fun with the cab driver. So he leaned over and said, "Driver, what is past is prolog." He said, "What do you reckon that means?" He thought the driver would say, "I do not know." The driver did not hesitate a moment. The driver said, "Sir, that means you ain't seen nothing yet." So these people who are angry about trying to offer amendments think they have seen something

yet. Let me tell them that what is past is prolog. They ain't seen nothing yet.

In the State of Minnesota, there is a pediatric surgeon who continued to perform deliveries of babies, and he did rectal and vaginal examinations, months after he found out that he had AIDS. In the most shocking part of this story, a Minnesota television station broadcast pictures of this surgeon delivering a baby while his bare arms were covered with sores. When asked about the sores by the mother of the child he was about to deliver, the doctor said, "Oh, well, these sores are just an allergic reaction."

Now this man knew that he had AIDS well before he delivered that baby. One of this doctor's patients told Newsweek, "He takes an oath to save lives not give a death sentence."

Back in my State, a health care trainee at a major hospital in eastern North Carolina worked with patients for more than a year after finding out he had the AIDS virus. Residents of the Fayetteville and Raleigh area have begun receiving letters from military and county health officials saying that they might have been exposed to AIDS because their dentist had the disease. The military installation was Fort Bragg.

Mr. President, I have read in various newspapers that the AMA and the American Dental Association have rejected calls for mandatory AIDS testing. The AMA says it is up to the doctors to determine if they should be tested. Responding to the position of the professional medical establishment, former Surgeon General C. Everett Koop told doctors that they faced a loss of credibility if they refused to be tested. He warned, and I quote Dr. Koop, "Be certain that the public knows that you are just as concerned about them as you are about yourselves."

As usual, the medical establishment thus far and the AIDS lobby—both have been silent in seven languages.

Let me say as emphatically as I know how, the Helms amendment now pending does not—repeat, does not—require that health care professionals undergo mandatory AIDS testing. I am going to visit that issue another time. But the Helms amendment now pending, which the clerk read in its entirety, does say that if a doctor, dentist, nurse, or health care worker performs or is involved with invasive medical techniques—that is, a surgeon, obstetrician, surgical nurse, so forth—and knows that he or she has AIDS and fails to notify his patients of that fact, he is subject to a fine and jail term of not less than 10 years. I, for one, believe that this is an adequate response, certainly a good beginning, to the rogues in the medical community who have knowingly and callously exposed hundreds upon hundreds of innocent people to the AIDS virus.

Let me say again for the purpose of emphasis, this amendment does not require mandatory testing. It does not require that the psychiatrist or the podiatrist undergo any testing, nor does it compel them to disclose to their patients that they have AIDS. We will visit that later also. Using language provided by the distinguished Republican leader, Senator DOLE, the Helms amendment says that if you perform invasive medical procedures, you must notify your patients if you know you have AIDS. The Helms amendment also provides a necessary safeguard for those in emergency situations. The notification provisions of this amendment do not apply to emergency situations.

We are not talking about hundreds of medical professionals with this amendment. The vast majority have honorably abided by the opening sentence of the Hippocratic oath. That opening sentence says: "I shall first do no harm." However, there are a few people in the medical establishment who have thrown away their duty to others. That doctor in Minnesota and that dentist in Florida, none of these should be treated any better than the criminal who guns down a helpless victim on the street. The effect is absolutely the same.

Mr. President, that is about it. I know there will be some opposition to it from the usual sources. I will yield the floor and listen as attentively as I am able. I thank the Chair.

Mr. President, I ask unanimous consent that a series of articles from the Raleigh News and Observer, the Washington Times, Newsweek and Human Events be printed in the RECORD at this point.

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

[From the Raleigh News and Observer, June 28, 1991]

WAKE DENTIST HAS AIDS; PATIENTS WILL BE NOTIFIED

(By Tinker Ready)

A Wake County dentist may have treated several hundred people while infected with the AIDS virus, state and county health officials said Thursday.

The chance that any patients were infected is "very, very low," officials said.

The dentist, who is no longer practicing, has decided to notify all of his patients, said Wake County Health Director Leah Devlin, who called a news conference Thursday to announce the state's investigation into the case.

Dr. Devlin declined to release the dentist's name, noting that a state law barred the disclosure of the names of AIDS patients reported to the state.

She also refused to disclose any details about the dentist, including the date of diagnosis, the city or town in which the dentist practiced or the length of time the dentist practiced after learning he or she had AIDS.

But a government official who asked not to be identified said the dentist was a male who practiced in Wake County but not in the city of Raleigh. State and county officials were notified of the case by the dentist's doctor, and the dentist told officials that he had stopped practicing immediately after being diagnosed, the official said.

The dentist is being treated in a Triangle hospital for AIDS, the official said.

Another official said the dentist is 40 years old and was diagnosed last week as having AIDS.

Dr. Devlin stressed that she thought there was little chance that any of the dentist's patients were infected.

"We have done a thorough public health investigation," she said. "The risk of transmission to patients is extremely low."

She estimated the number of patients the dentist treated was in "the hundreds" and said he may have practiced outside Wake County while infected.

The only known case of a doctor or health-care worker infecting patients is that of a Florida dentist who was diagnosed with AIDS in 1987 and is thought to have infected five of his patients.

The Florida dentist failed to use proper infection control procedures, Dr. Devlin said, although investigators there have not determined that lack of proper infection control was the cause of transmission.

In contrast, the Wake dentist used "excellent" infection control procedures, including the use of gloves and masks and the sterlization of instruments, said RebeccaMeriwether, the head of the state's communicable disease control program.

Other factors the state looked at that might have contributed to the risk of transmission included the type of procedures performed by the dentist and any injuries the dentist had, Dr. Devlin said.

The dentist, and the dentist's staff and family, cooperated with the state's investigation, she said.

Dr. Devlin said she and her staff were convinced that the risk of transmission was so low that they would not have ordered the dentist to notify patients if the dentist had not chosen to do so.

The state is in the process of composing a letter to the dentist's patients to inform them of the "technical issues" surrounding their contact with the dentist. The dentist is planning to send out his own, separate letter, Dr. Devlin said.

Paul Arons, the medical director of the AIDS program at the Florida Department of Health and Rehabilitative Services, said several other dentists had been identified with HIV infection—including cases in Palm Beach, Delaware and Missouri. However, so far, no additional cases of transmission to patients have been discovered, he said.

The Centers for Disease Control has identified 167 dental workers with HIV infection, mostly dentists, Dr. Meriwether said. No such figures were available for North Carolina, she said.

Thomas V. Bennett, director of the N.C. Dental Society said after the news conference that the public should not single out dentists as having a high risk of transmitting AIDS when there has only been one dentist to pass the disease on to his patients.

He said his organization endorsed American Dental Association guidelines, which call on HIV-infected dentists to refrain from "invasive procedures"—those that break the skin—or to notify their patients of their condition.

"The bottom line is, it is safe to go to the dentist," he said. "Your chances of contracting AIDS at the dentist are astronomically small."

[From the Raleigh News and Observer, June 30, 1991]

WAKE COUNTY DENTIST WHO HAD AIDS DIES

(By Rachele Kanigel and Thomas Healy)

John Harvey Spell, 46, a Wendell dentist, died Saturday of AIDS, one day after notifying his patients that he had the disease.

On Thursday, state and Wake County health officials had announced that an unidentified Wake County dentist had acquired immune deficiency syndrome. They said that the dentist was no longer practicing and that there was no public-health reason for him to let his patients know of his condition.

Nonetheless, Dr. Spell told his patients of his condition in a letter dated Friday. "I am writing to let you know that I was recently diagnosed as having HIV infection and AIDS and will be closing my practice," he wrote.

He said his practice would close July 1.

"Out of my desire to let you make your own personal informed decision on whether or not you wish to be tested for HIV I have elected to notify you," the letter said.

Dr. Spell operated a dental office for several years on U.S. 64 Business just outside Wendell in eastern Wake County after moving to the area from Los Angeles.

A 1962 graduate of the former Wendell High School, he attended the University of North Carolina at Chapel Hill, where he graduated in 1971 with a degree in dentistry.

Upon graduation, he joined the U.S. Navy. He served for four years, leaving the service in 1975 as a lieutenant commander.

Family members declined to comment on his death.

Dr. Spell died at Wake Medical Center at 1:15 p.m., said Beverly D. Byrd, hospital clinical administrator.

State and Wake County health officials say there was very little chance that Dr. Spell had infected any patients with the human immunodeficiency virus, HIV, which causes AIDS.

A letter from health officials was sent to patients with Dr. Spell's letter. "Altogether the risk an infected dentist or other healthcare provider will past this virus to their patients [is] very, very low," the letter said.

In the letter, Leah Devlin, Wake County health director, and Ronald H. Levine state health director, wrote: "We examined the infection-control practices of this dentist and the staff . . . and concluded that they were excellent. Therefore, the risk of transmission is very low."

County and state health officials could not be reached for comment Saturday.

In interviews Saturday, two patients of Dr. Spell's said they were sorry to hear of the dentist's death but were not fearful for their own health.

"The office was very clean and he was always gloved and masked." said one patient who asked not to be identified. "I'm sure he took all the precautions."

The other patient, a Wendell woman, said she planned to get the HIV test just to make sure. "I don't think there's a bit of harm," she said. "I'm sorry he died. I really am, because he's a good person."

HIV is transmitted through the exchange of blood or other body fluids, usually through sexual relations or sharing of needles, so it is unlikely a dentist or other health-care worker could infect a patient.

The only known case of a health-care worker infecting patients is that of a Florida dentist who was diagnosed with AIDS in 1987. He is thought to have infected five of his patients.

Health officials have said the Florida dentist failed to use proper infection-control procedures, which can prevent the spread of HIV and other infectious diseases.

On Thursday, Rebecca A. Meriwether, the head of the state's communicable disease control program, said the infected Wake County dentist had used "excellent" infection-control measures, including the use of gloves and masks and sterilization of instruments.

Letter from Dr. John H. Spell dated June 28, 1991:

Dear Valued Patient,

I am writing to let you know that I was recently diagnosed as having HIV infection and AIDS and will be closing my practice.

Both the local and state health departments have done a thorough investigation of the possibility of transmission occurring in my practice. As the attached letter [from the Wake County Health Department] indicates, the risk of my transmitting HIV to any of my patients during dental treatment is extremely low. They also concluded that there was not a public health reason to let my patients know of my condition. However, out of my desire to let you make your own personal informed decision on whether or not you wish to be tested for HIV, I have elected to notify you.

My practice has closed effective July 1, 1991. Please contract the office at 365-6080 beginning July 8th during normal business hours if you would like a copy of your dental records forwarded to another dentist.

It has been my pleasure to have provided dental care for you and I apologize for any undue concern this unfortunate situation may cause.

My best wishes to you.

Sincerely,

JOHN H. SPELL, DDS.

[From the Raleigh News and Observer, July 1, 1991]

800 PATIENTS TOLD DENTIST HAD AIDS

(By Thomas Healy)

About 800 former patients of a Wake County dentist who died Saturday of AIDS have been notified of their possible exposure to the virus that causes the deadly disease, health officials said Sunday.

The patients of John Harvey Spell, 46, of Wendell, were mailed letters Friday telling them of Dr. Spell's condition and of their risk of contracting AIDS. Authorities also are notifying health officials in Los Angeles—where Dr. Spell previously practiced—of the dentist's infection.

News that a Wake County dentist had contracted AIDS was released Thursday by state and Wake County health officials. They said the dentist was no longer practicing and that there was no public health reason for him to notify his patients of his condition.

But Dr. Spell decided to inform his patients. On Friday, about 800 letters were mailed to patients he had treated during his six-year stay in Wendell. Dr. Spell died of acquired immune deficiency syndrome the next day at Wake Medical Center.

Rebecca A. Meriwether, the head of the state's communicable disease control program, said Sunday that health officials had been notified of Dr. Spell's condition about a week ago by a spokesman for his family. She said the dentist had been diagnosed as having AIDS "very, very recently" and had quit practicing a short time thereafter.

Dr. Meriwether also repeated statements by health experts that there was little chance the dentist had infected any patients with the human immunodeficiency virus, HIV, which causes AIDS.

"The really important thing is that the risk of transmission is very, very low," she said.

HIV is transmitted through the exchange of blood or other body fluids, usually through sexual relations or the sharing of needles, so it is unlikely a dentist or other health-care worker could infect a patient.

But many residents of Wendell, a small town in eastern Wake County, were still worried that the disease could have been spread to patients. And they were surprised to learn AIDS had turned up in their quiet community.

"It is kind of shocking to think that it's right here in a small town, especially because it's a dentist," said Shirley Strickland, 38, a local Realtor. "And think about how many people he treated. It's getting too close for comfort."

Ms. Strickland wasn't a patient of Dr. Spell, but she was still concerned his patients could have become infected. "You never know. You never really know. All it takes is one time for you to contract AIDS."

One nearby resident said she had seen Dr. Spell recently, and he did not look ill.

"It was hard for me to believe he died that quick," said July Smith, 41, of Zebulon. She said Dr. Spell was a frequent customer of the Variety Pick-Up in Wendell, where she works. "It was really a shocker."

But Ronald H. Levine, state health director, said the time it takes for an AIDS patient to die can vary. "There are occasions of patients who have a very rapid downhill course, and that's apparently what happened to this young man."

Paul White, a friend of Dr. Spell since high school, said he didn't want people to overreact. And he said he was confident the dentist hadn't put his patients at risk of contracting AIDS.

"I expect if he was aware of it, he did whatever was necessary."

In a letter to Dr. Spell's patients, health officials said the dentist used "excellent" infection control practices, including gloves and masks.

[From the Raleigh News and Observer, July 2, 1991]

AIDS TESTS BEGIN FOR LATE DENTIST'S PATIENTS

(By Tinker Ready)

Patients of a Wendell dentist who died of AIDS began coming to the Wake Health Department for tests Monday. The department added workers to perform the tests and answer questions about the risk of exposure.

County health officials said about 95 people had called by midday to make appointments to be tested for the HIV virus that causes AIDS, and they expect more of John H. Spell's 800 patients to receive the tests from the health department or their own doctors.

Dr. Spell last treated patients on June 7. Shortly after that, he was diagnosed with HIV and AIDS, said Leah M. Devlin, Wake County health director.

Patients began receiving letters from Dr. Spell on Saturday. He died that day at Wake Medical Center.

In the few days since they announced that a Wake dentist had been diagnosed with AIDS, health officials have emphasized repeatedly that they believe there is little chance he exposed his patients to the HIV virus or the disease.

They reiterated their assurances on Monday, and said callers seemed in general to be calmer than people who telephoned last week before Dr. Spell's name became public.

County officials said an HIV test was not necessary if a person's only exposure to the

virus was at Dr. Spell's office. They said they believe Dr. Spell used stringent infection control measures, which minimized the risk of passing the virus to his patients.

But the county is providing Dr. Spell's patients with information about the possibility of exposure so they can make up their own minds about testing, said J. Steven Cline, deputy health director for Wake County.

"Most of them have already reached a decision about whether they will be tested and we don't try to talk them out of that," he said.

Despite the short length of time between Dr. Spell's diagnosis and his death, county and state officials reiterated on Monday that the dentist stopped practicing as soon as he found he had AIDS.

Although some people live for years after a diagnosis, Charles M. van der Horst, director of the AIDS clinical trials unit at UNC Hospitals, said it is not uncommon for a patient to die within weeks of being diagnosed with HIV and AIDS.

He said Dr. Spell, 46, probably grew ill with an AIDS-related disease, was tested for HIV at the time and then died of the related disease.

Such was not the case in Wilmington, Del, where state health officials learned that a dentist who died of AIDS in March had practiced for two years after being diagnosed.

Following an investigation of the case, the state decided the risk of transmission was small, but had some "concerns," and ordered the notification of patients, said Lester N. Wright, the state health director in Delaware. He would not identify what caused his concern about possible transmission.

The state sent letters out to about 1,890 patients and was contacted by 891, he said. None of the 593 people who have been tested so far has come up positive, he said.

In Wake County on Monday, the health department had three extra staff people answering phones and making appointments for AIDS tests and two extra people performing tests.

Some people called the AIDS Service Agency of Wake County, a private AIDS education program.

The agency has told callers they can be tested for AIDS either by their private doctors or by the county, said Harriette A. Bugel, the group's community education coordinator.

In many cases, the agency recommends the county test because, unlike private tests, it is free, she said.

In addition, the county offers a choice of anonymous testing—where the test subject uses a fake name or number—or confidential testing, where the county takes the test subject's name but agrees not to release it.

Like the county, the agency does not tell people whether they need to be tested, she said. "What we do is give out the factual information that transmission is close to impossible, if universal precautions are used" by healthcare workers, she said.

Universal precautions are infection-control procedures that include the use of gloves, masks and gown, and the sterilization and disposal of contaminated instruments. The measures are designed to protect both patients and health-care workers from exchanging body fluids, which is the major means of AIDS transmission.

Most people acquire AIDS through sex with an HIV or AIDS carrier, by sharing a needle with someone who has the illness, or, in the case of AIDS infected mothers, at birth.

[From the Raleigh News and Observer, July 2, 1991]

AIDS TEST BEGINS, ENDS, WITH ADVICE

The Wake County Health Department begins all AIDS tests with a counseling session.

The counselor asks people why they sought testing, talks about how AIDS is transmitted and how to avoid exposure.

The test subject then provides a blood sample and is asked to return in 10 working days for the results. The entire process takes between 20 and 30 minutes.

The blood sample is subjected to two tests. The first, the Elisa test, detects the presence of antibodies which form in the body to fight the human immunodeficiency virus, or HIV. The Elisa test is very sensitive and has been known to mistakenly identify healthy individuals as HIV carriers. So if the test is positive, the sample is double tested with the much more accurate, but more involved, Western Blot tests, which test for proteins present in HIV antibodies.

It usually takes about 12 weeks for the body to begin producing the antibodies after AIDS exposure, but it can take as long as 18 months. As a result, an AIDS test soon after an exposure is meaningless because a person may have been exposed, but the test will not show it until the body begins producing the antibodies.

Once the tests are completed, the subject is notified and must attend a post-test counseling session. If the test is negative, the counselor goes over the ways to avoid exposure to AIDS in the future.

If the test is positive, the counselor talks about how the test subject can avoid transmitting the illness and how to get medical care.

Tests are done free of charge at the health department clinic on Sunnybrook Road.

[From the Raleigh News and Observer, July 3, 1991]

TRAINEE HAD AIDS VIRUS WHILE WORKING AT HOSPITAL

(By Tinker Ready)

Officials at Pitt County Memorial Hospital in Greenville announced Tuesday that a heathcare trainee had worked at the hospital for more than a year after finding out he was infected with the HIV virus, which causes AIDS.

The hospital, in a written statement, said its preliminary investigation had indicated that the individual, who is no longer associated with the hospital, "engaged in only limited patient involvement" and presented no threat to the public.

The hospital declined to identify the student or the department where he worked.

The student who stopped working at the hospital in May, was diagnosed with HIV infection soon after he began his training about 18 months ago. Both the student's academic supervisor at the hospital and the county health department were aware of his condition.

They allowed him to complete his training because he was taking the precautions necessary to avoid transmitting the deadly illness to his patients, said Pitt County Health Director C. Timothy Monroe.

The hospital's administrative staff was unaware of the case until several weeks ago. Hospital officials think the odds that the student infected his patients are so low that there is no need to notify those who came in contact with him.

Hospital President David C. McCrae said he would wait until a panel of outside consultants completed a follow-up investigation before making a decision on notification.

The hospital chose to publicize the case because of growing concern about AIDS-infected healthcare workers, he said.

Pitt County Hospital is affiliated with the East Carolina University Medical School where 1,200 health-care workers are trained each year, including 300 medical students.

Last week, the Wake County Health Department announced that an unidentified dentist had been diagnosed with acquired immune deficiency syndrome but that there was little chance he had infected patients. On Saturday, the dentist, John Harvey Spell of Wendell, died of AIDS, one day after mailing letters to 800 patients alerting them of his condition.

As of late Tuesday, about 200 of his former patients had scheduled HIV tests with the county and 125 of those people had been tested.

The only known case of a health-care worker spreading AIDS to his patients is that of a Florida dentist who was diagnosed with the disease in 1987 and is thought to have infected five patients. Investigators said they did not think he practiced adequate infection-control procedures.

In Pitt County, the hospital's investigation of the HIV-infected student found that "stringent universal barrier precautions and CDC [Centers for Disease Control] guidelines were observed at all times and, as a result, the student's activities created virtually no chance of transmission to patients," Mr. McCrae said.

[From the Washington Times, June 25, 1991]

QUAYLE PUSHES AIDS TESTS FOR DOCTORS

Doctors and health care workers should be required to take AIDS tests to let patients know they could run the risk of infection. Vice President Dan Quayle said yesterday after a speech to the annual meeting of the American Medical Association.

"We have got to have this disclosure on this issue because you're talking about lives," Mr. Quayle told reporters after his speech.

In a meeting of the association's public health committee, doctors debated a proposal yesterday by the Missouri delegation that hospital patients and physicians be routinely tested for the AIDS virus.

"What's good for the goose is good for the gander," said Dr. George Bohigian, a St. Louis ophthalmologist who wrote the resolution.

The proposal is to be voted on this week by the full delegate assembly, which sets policy for the 300,000-member AMA. The Chicago convention continues through Thursday.

Police arrested about 25 protesters belonging to the AIDS Coalition to Unleash Power, or ACT UP, as about 200 members marched to the Chicago Hilton & Towers Hotel, where the convention was being held.

"The world's watching! The world's watching," demonstrators shouted, echoing the chant at the bloody 1968 Democratic National Convention.

Inside the hotel, a woman interrupted a speech by Mr. Quayle by repeatedly shouting, "People with AIDS need national health care!" She was hustled out of the room.

Former U.S. Surgeon General C. Everett Koop told the public health committee that doctors face a loss of credibility if they refuse to be tested.

"Be certain that the public knows that you are just as concerned about them as you are about yourselves," he said.

Many physicians worry that their practices will be devastated if patients learn they

are infected with HIV even though doctors have said the risk of a health care worker infecting a patient is extremely low.

Given what he called the "extremely low odds," Brian Davis of Michigan told the committee that doctors should not have to undergo AIDS tests.

But other doctors told the panel that physicians who perform invasive procedures such as surgery should be tested.

The AMA has opposed across the board AIDS tests. One AMA official said, "It would be extremely expensive and would give a false sense of security."

The group's leadership has told doctors that if they think they are at risk for the disease, they should be tested and not to treat patients in any way that could pose a threat if they are infected.

In response to a question at a news conference on whether AIDS tests should be mandatory for doctors and medical personnel, Mr. Quayle said:

"I wouldn't say we ought to pass a federal law on that issue. But I think it's something that should be done at the state levels, at hospitals. It's a good idea.

"I believe that everybody would like to know whether their doctor is infected with the HIV. That is a good idea to have that knowledge, that information, as I think doctors would want to know if their patients were infected," Mr. Quayle said.

The U.S. Centers for Disease Control has recorded one instance in which an HIV infected dentist spread the disease to five patients. It has said the Florida dentist's precautions against spreading the infection must have been exceptionally shoddy and that the odds against this happening again are remote.

Patients in several states, including North Carolina, Minnesota and Michigan, have been notified that they were treated by HIV-infected physicians.

The medical group also is considering a recommendation that everyone sent to prison be tested as they enter jail and again when they are released.

[From the Washington Times, June 27, 1991]

AMA REJECTS REQUIRED TESTING

The American Medical Association yesterday rejected calls for mandatory AIDS testing of health care workers but did endorse regular voluntary testing of those whose practice puts them at risk of contracting the deadly disease.

"Physicians who are at risk have an obligation to know what their status is," said AMA board member Nancy Dickey at the Chicago convention.

But the AMA may not have the final word on the issue. In Washington, Rep. William E. Dannemeyer, California Republican, said yesterday he introduced a bill to require health providers who perform invasive procedures to be tested for HIV infection and hepatitis B.

Mr. Dannemeyer's legislation, known as the Kimberly Bergalis Patient and Health Providers' Protection Act of 1991, would prohibit infected doctors and dentists from performing any invasive procedures unless a patient expressly approves it. Miss Bergalis is a young Florida woman dying of AIDS she contracted from her dentist.

The bill would make states responsible for the HIV and hepatitis B screening. It would also give a doctor or dentist broad discretion to test for viruses without the patient's consent before performing an invasive procedure, provided the medical professional has reason to believe the patient poses a risk of transmitting an infection.

The decision by the AMA to back voluntary testing came on a voice vote among policy-making delegates after they rejected the counterproposal calling for mandatory testing.

The resolution suggests routine testing for doctors such as trauma physicians who regularly do invasive procedures and come into contact with patients' blood, or health care workers in areas where AIDS is prevalent, Miss Dickey said.

Family practitioners or others who are not normally at risk would not need regular testing.

The AMA resolution did not deal with the question of whether doctors should tell their patients if their test is positive.

Those opposed to mandatory testing argued that it would create a false sense of security because it can take as long as six months before tests may reveal the presence of the virus.

Mr. Dannemeyer discussed his bill at a news conference, where he was joined by Dr. Sanford Kuvin, medical adviser to Miss Bergalis. She is "very near death," Dr. Kuvin said yesterday.

In a letter he sent to Mr. Dannemeyer on Monday, Dr. Kuvin wrote "Today, Kimberly wailed a cry of joy to me that her prayers have finally been answered by the proposed legislation, and she expressed hope that every member of Congress will have an opportunity to vote on this legislation. Kimberly then said to me that if such a law were passed her death would not be in vain."

[From Newsweek, July 1, 1991]

DOCTORS WITH AIDS

It is 80 degrees in the Florida dusk, but Kimberly Bergalis huddles under a quilt on the couch in her family's living room. At 65 pounds, she is half her normal body weight. Her skin is chalk white and her eyes stare blankly at the television blaring out music videos just six feet away. In late March the 23-year-old Bergalis took long walks on the beach; now she can barely lift her arms. She is in the last stages of an AIDS-related tuberculosis that wastes body and brain. Sometime in the next few days, Bergalis will probably become the first American to die of AIDS after being infected by her dentist, Dr. David Acer, who died of AIDS last year.

Bergalis went public with her condition in August, campaigning fiercely for regulations governing HIV-positive physicians and dentists that would require them to disclose their condition and thus prevent anyone else from suffering her fate. Now she is just waiting for the end. "Please get this over with," she whispers hoarsely through her horribly blistered mouth, as her mother combs her hair. Later, after her father bathes her and carries her to bed, he says, "See you tomorrow." And she replies "Hopefully not."

More than a thousand miles away. Dr. Richard Duff, a Minneapolis family practitioner, also contemplates his final days. Duff was diagnosed with AIDS more than three years ago. He believes he contracted the virus sometime between 1985, when he and his wife divorced after 18 years of marriage, and 1988, when they remarried. While he was single, Duff says, "I chased around." Once an athletic 150-pound man who loved to play racquetball. Duff is now barely 110—and maintains that weight only through nightly intravenous feeding. As he sits in his kitchen, slowly spooning peaches into his mouth, he seems 90, not 51. Between the diagnosis and his retirement from practice last week, Duff saw hundreds of patients who did not know he had AIDS.

Duff defends his decision to keep his condition a secret from his patients. Because he avoided invasive medical procedures, he says he "wasn't putting anybody at risk." In fact, he might have gone quietly into the night if not for an incredible coincidence: Philip Benson, one of Duff's colleagues at the Palen Clinic in Minneapolis, found out last fall that he, too, has AIDS. Duff says he knows people will think the two were lovers: "That bothers me incredibly." But, he says, there's no connection between the two cases and he has no idea how Benson got sick. On June 14 Benson sent 328 patients a letter advising them to get AIDS tests because they had come to him for procedures that might have exposed them to the AIDS virus. In the wake of extensive publicity about Benson, Duff made his public announcement last week. So far, none of Benson's or Duff's patients has tested positive for AIDS. Duff thinks of himself as a role model for other AIDS-infected doctors. Careful physicians, he says, "aren't risky."

Bergalis and the Minneapolis doctors are on opposite sides of the explosive national controversy over AIDS-infected health-care workers. Just a year ago most authorities on AIDS considered it virtually impossible for an AIDS-infected physician or dentist to pass the virus on to patients. Universally accepted precautions—such as rigorous sterilization of equipment, double surgical gloves and masks—were deemed sufficient to prevent the blood contact needed for transmission. In fact, when Bergalis was first diagnosed, health officials investigating her case relentlessly looked for other explanations, such as intravenous drug use or promiscuity. When those avenues provided dead ends, they concluded that Acer had indeed given her AIDS—although health officials say the means of transmission are a mystery. Since then, four other Acer patients have been diagnosed with the same strain of AIDS.

Although the five are still the only patients known to have gotten AIDS from a physician or dentist, their cases have turned the impossible into a frightening reality. Some health officals say the public reaction in recent months has bordered on hysteria. Legislators in several states have introduced bills calling for all HIV-positive doctors to disclose their status to all their patients, a move most medical associations regard as extreme.

According to a Newsweek Poll, more than nine out of 10 Americans think doctors should be required to tell their patients if they have AIDS (poll). Around the country, aggrieved patients have filed lawsuits after learning that their physicians were infected—even though the patients are disease-free. Many patients say they have begun to be suspicious of any doctors they fear fall into a risk group for AIDS.

Indeed, some doctors and patients have begun to view each other as potential agents of destruction, rather than participants in the healing process. Two months ago Morey Filler, a San Francisco obstetrician, was about to perform major surgery on a 38-year-old woman when she suddenly asked him if he had been screened for AIDS. Startled, Filler told her that he and his surgical team were not in any high-risk group and took precautions in surgery. Filler says that he now dresses like a "road warrior" with high plastic boots and gloves. Los Angeles cancer surgeon Mitchell Karlan faced the opposite dilemma recently after performing surgery on a patient with a facial tumor. The procedure was a success and, four days later,

Karlan was about to take out the stitches—without gloves—when the patient told Karlan that he was HIV positive and advised the surgeon to protect himself. Karlan thanked the patient, donned gloves and removed the stitches. Universal precautions required in the age of AIDS make surgery "like being on guard duty for 30 days, 24 hours a day," says Karlan. "Every time I pick up a needle, it's like picking up a cobra."

Even as they try to calm these fears, health officials admit that there is some risk for both patient and doctor. According to the federal Centers for Disease Control in Atlanta, there were 6,436 reported cases of health care workers with AIDS from the start of the AIDS epidemic in the early 1980s until this March, including 703 nonsurgeon physicians, 47 surgeons, 171 dental workers and 1,358 nurses (chart). Most experts say these figures probably represent only a small proportion of infected health-care workers since they are all full-blown reported cases of AIDS. Thousands more may have tested HIV positive. Others may be infected but symptom-free and therefore untested.

Health officials still emphasize that it is extremely unlikely that a patient will get AIDS from a physician, dentist or nurse; the much greater risk is that physicians and other health-care workers performing surgery or other invasive procedures on AIDS-infected patients will get the virus from their patients. At last week's international conference on AIDS in Florence, Italy, Dr. Albert Lowenfels of New York Medical College calculated that the risk of transmission from an HIV-infected surgeon to a patient is about one in 48,000.

"The risk closely resembles the risk of a vehicular fatality during transportation to and from the hospital," he concluded. In contrast to the five Florida cases, there are 40 known cases of health-care workers around the country who have gotten AIDS from patients, according to the CDC, most of them from accidental needle sticks or cuts. Some officials say the actual number of infected workers may be much higher.

Given the millions of surgical procedures performed in this country since the start of the AIDS epidemic, these figures should reassure both doctors and patients. But like everything else about AIDS, there's a big gap between knowledge and emotion. Many of Benson's patients panicked when they received their letters from the doctor. "I was screaming," says 30-year-old Kathy Nesby, a homemaker and mother of three. Benson delivered her daughter Nicole on Oct. 10—after he found out he had AIDS. Although Nesby says his arms and hands were covered with oozing sores, during the next few months Benson performed three well baby" checkups on Nicole, looking at her eyes, nose and ears. Without wearing gloves, Nesby says he also spread the lips of Nicole's vagina and put a tongue depressor in her mouth. Although she and Nicole have tested negative for AIDS. Nesby worries about anything that goes wrong with Nicole. "She's had a little diaper rash now for over a month and a half," says Nesby. "It's sure taking a long time to clear up."

Like other patients of Benson, Nesby was particularly disturbed by the weeping lesions on the doctor's arms and hands. Though he claims he wore gloves when necessary, Benson performed rectal, vaginal and throat exams during months when the sores were so severe that one health-care professional who saw them compared them to third-degree burns. KARE TV of Minneapolis last week broadcast a photograph of a doctor identified as Benson delivering an infant last August; the photo appears to show sores on the doctor's bare arm even as his gloved hands extract the baby. Nesby says that when she asked Benson about his skin condition, he told her that it was "an allergic reaction to the sun." Another of Benson's patients, who is suing him and wants to be identified only as "K.A.C." says she can't understand why the doctor put patients at risk. "He takes an oath to save lives," she says, "not give a death sentence."

HIDING THE TRUTH

Neither Benson nor his lawyer would talk to Newsweek about the case. But Duff, Benson's colleague, admits that he hid the truth from patients who asked him if he was sick as he lost weight and grew weaker. He told them, "I'm dealing with a significant illness," he says. Mostly, he was concerned about his sons—now 14, 18 and 20. "My kids are at an age where there's a certain amount of AIDS phobia," Duff says. "I didn't want to cause a major crisis in my life." According to Duff, the clinic staff knew for two years and no one quit. In fact, he says, he asked the staff to tell him if they felt he should stop practicing. "Let me know, and I'll retire right away," he says he told them. "Sometimes you can't see things yourself very well." Now he says he realizes he should have quit earlier. Because of exhaustion, he had already cut his patient load in half. "Maybe this is God's way of saying, 'If you're not going to quit on your own, I'll get you to quit'."

But should someone have intervened sooner? Patients assume that state or federal regulatory agencies are watching over their health care. While this may be true in some parts of the medical system, doctors with AIDS are pretty much on their own. Only one state—New York—has issued enforceable rules for HIV-infected health-care workers. There are no federal regulations covering infected physicians. After months of debate, the CDC is still in the process of drafting guidelines on the issue. This week Rep. William Dannemeyer (Republican of California) is planning to introduce legislation in Congress governing infected health-care workers. Michael Osterholm, Minnesota's state epidemiologist, is the chosen representative of the nation's state epidemiologists to the Centers for Disease Control in its deliberations on new standards. "The lag in the development of federal guidelines is one of public health's worst hours," he says. "If we professionals don't do something proactive, the state legislators and the insurance companies will do it for us."

In Minnesota, state health officials were first notified of the Benson case eight months ago; it took that long to work its way through bureaucratic channels. Officials at the Board of Medical Examiners struggled with the case: they knew of no other situation in which a practicing physician with AIDS had been reported to his state board. Finally, after combing through records, authorities estimated that 328 patients were at greatest risk because of a combination of the timing of the procedures and the presence of the lesions. That number, revised last week to 339, includes 38 mothers and 38 babies.

The American Medical Association and the American Dental Association both recommend that HIV-positive dentists and physicians either refrain from performing invasive procedures or disclose their condition and obtain informed consent from their patients. Dr. Nancy Dickey, an AMA trustee, says professional self-regulation works best because each case presents its own set of problems. Some infected doctors in specialties where they have little direct contact with patients, such as radiology, would be able to work safely as long as they are healthy. Others, particularly surgeons, present greater risks.

Mandatory testing of all health-care workers might seem like a good solution, but some AIDS experts say it's impractical and ineffective. There can be a six-month lag between infection and the development of antibodies that show up on a test. That could mean that a doctor who cuts himself while operating on an infected patient would have to stop practicing for at least six months until he can be tested. And a clean bill of health could be meaningless just a day after it is issued if the health-care worker becomes infected.

Where would disclosure end? Should a physician with a seizure disorder tell his patient about his condition? What about doctors who are recovering alcoholics or substance abusers? Disclosure is "incredibly murky," says Dori Zaleznik, and epidemiologist at Beth Israel Hospital in Boston. "Do you have to tell the patient you had a fight with your wife this morning and it is affecting your judgment?"

Other physicians think the risks of testing are worth it. "The inherent right to know—for patient and doctor alike—always has to supersede confidentiality," says Dr. Sanford Kuvin, vice chairman of the National Foundation for Infectious Diseases in Washington, D.C. "The doctor doesn't have to put up a signboard, but there has to be informed consent if he is going to do invasive procedures. 'First, do no harm' is the absolute bedrock of medicine. The Kimberly Bergalises of this world are avoidable."

Testing doctors inevitably brings up the issue of patient testing. This week the AMA will meet to debate recommendations that call for routine testing at the discretion of the doctor, accompanied by counseling and informed consent. "Doctors are afraid," says Dr. Paul Rothman, president of Search alliance, and AIDS-research organization in Los Angeles. "They want to know the HIV status of their patients, and doctors who work in surgery ask us about it all the time. If we get the patient's permission, we give the information, otherwise it's up to the surgeon to discover it on his own. In many institutions, blood is illegally and surreptitiously drawn on patients to find out their status."

Historians say AIDS presents unique medical and social dilemmas. In past epidemics, infected doctors were never required to disclose their status to patients, says Sheila Rothman, a medical historian at the Center for the Study of Society and Medicine at Columbia University. Nor were patients expected to tell doctors that they had an infectious disease. "There was silence on both sides," Rothman says. From 1800 to 1870, one out of every five deaths in this country was from tuberculosis. So many doctors got the disease, Rothman says, that by the 1920s it was sometimes referred to as the "occupational disease of physicians." But even then, there was no question of not treating sick patients or of doctors who were ill refraining from practice if they were physically able to work.

Today physicians who willingly disclose their illness can pay a terrible price. Dr. Hacib Aoun's entree into the nightmare world of AIDS came without warning, heralded only by the sharp crack of a breaking test tube and the sight of HIV-contaminated blood dripping over his cut finger. In Decem-

ber 1986, three years after that awful day, the Baltimore cardiologist was diagnosed with full-blown AIDS. Administrators at the hospital where he was training refused to renew his contract. He sued and settled for an undisclosed sum a year later. Aoun has not been able to find a job since. He spends his time traveling around the country lecturing on doctors and AIDS. "Death is going to catch me with my boots on," says Aoun, 36. "I'm not going to sit down and dwindle away. I have a message to pass on." He is bitter that HIV-positive doctors are treated like lepers. "The one thing that I am not doing now is the thing I love most in life and that is taking care of people, because medicine has no place for those who are HIV infected, regardless of your talent."

At this stage in the epidemic, doctors who admit they have AIDS and want to continue to help others have few choices. They can become activists, like Aoun; they can work in noninvasive fields like psychiatry or they can limit their practice to people with AIDS—considered pariahs by many doctors. In one recent study, two thirds of medical residents surveyed said they did not plan to treat people with AIDS and 74 percent of residents said they would not give lifesaving treatment to HIV-positive patients if the risk of infection to the resident were one in 100, according to Molly Cooke, an associate professor of clinical medicine at the University of California, San Francisco, who conducted the study.

Or HIV-positive doctors can continue to practice, keeping their painful secret. That is the choice that Bill (not his real name), a 41-year-old New York doctor, has made. It's been a little more than two years since Bill tested positive for HIV. He is still healthy and is not on medication. He follows the universal precautions to the letter, including hand-washing, gloves and masks. "Do I think there's no situation where HIV could be transmitted?" he asks. "No, there must be. But living in 1991 America puts us at risk for lots of things. You could ride on a subway that catches on fire. You can be involved in a car accident. Being alive involves risk."

Bill says he took the AIDS test when his lover became infected. Since his lover died a year ago, he has been especially grateful for his work. "In grieving," he says. "I've found that work can be a refuge. I'm glad to have it." Bill believes that not only is he not putting patients at risk, but he is serving some who would otherwise get no health care. "I'm talking about clinic patients, patients with tuberculosis, drug abusers, patients who have no access to health care. I'm one of very few in my specialty who don't turn away patients whose consult read 'HIV positive, insurance negative'."

In the absence of federal regulations, HIV-positive doctors must make their decisions the way Bill did—one case at a time. Patients can only guess about the health of their doctors; similarly, doctors must take risks with patients they may consider suspect (box, page 54). And the few for whom the issue is no longer theoretical will try to make some sense out of their tragedy.

Like Kim Bergalis, Barbara Webb was infected by David Acer, her dentist. the 65-year-old retired teacher says she never thought much about AIDS until she saw a story in the local paper about a patient suspected of contracting AIDS from Acer. She and her husband, Bob, also an Acer paient, went in to be tested. Her husband's test was negative; hers wasn't. "It was just like being hit in the solar plexus by a heavyweight boxer," says Webb. "I could hardly breathe. I thought: 'This is impossible'." In the months since, Webb, who is on AZT, has made a fragile peace with her disease, but she's still angry that Acer hid his illness. Earlier this year she needed eye surgery. She told her doctor she was HIV positive and explained that she would not be insulted if he refused to operate on her; he agreed to do the operation. "I would have understood totally and gone down to the AIDS clinic," she says. "And it wouldn't have bothered me at all to go down. I just gave him the option. Nobody gave me the option."

I BLAME EVERY ONE OF YOU BASTARDS

(Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.)

"When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

"I was infected by Dr. Acer in 1987. My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

"Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that *knew* Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

"Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

"Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your *fingers* and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skeleton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

"Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

"P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

"I'm dying guys. Goodbye."

IN FLORENCE, A MEETING OF MYSTERIES

For the seventh year in a row, thousands of scientists from around the world gathered last week to share their research on a disease that frustrates and fascinates them. Although the International Conference on AIDS in Florence was less politicized than in past years, there were demonstrations over a U.S. immigration policy that bans anyone carrying the AIDS virus. There were gloomy predictions that by 1995, 15 million people will be infected worldwide. And some studies suggested it's easier to get AIDS through heterosexual intercourse than most people think. But the conference offered good news, too: researchers understand better why some people carrying the virus remain free of symptoms for many years—and new drugs hold out the promise of prolonging lives.

An estimated 8 million to 10 million people are infected with the AIDS virus, says Dr. James Chin, head of the World Health Organization's AIDS surveillance unit; more than half live in sub-Sahara Africa. By 1995, Chin says, newly diagnosed cases will likely plateau in the industrialized world, but transmission will explode in developing nations. During the next couple of decades in the Third World. Chin predicts, "AIDS will become the leading cause of death for adults in their most productive years."

In the developing nations AIDS is spread most often by heterosexual intercourse. Initially researchers believed the virus was harder to transmit by vagina sex than anal sex, where rectal bleeding gives it direct entry to the bloodstream. But researchers from Harvard University's Dana Farber Cancer Institute reported evidence of what scientists had long suspected: even very small concentrations of the virus can be transmitted directly through mucous membranes. Dr. William Haseltine's team discovered the virus in a type of cell found in the linings of the rectum, vagina and mouth. Although AIDS transmission through deep kissing (with exchange of saliva) is theoretically possible, says Haseltine, "most people in public health think the risk is a small one."

Viruses lurking in mucous membranes, away from the bloodstream, may be more difficult to zap with drugs. But at least one drug, AZT, has lengthened the lives of many people who are HIV positive. Several researchers reported that combining AZT with the experimental drugs known as DDC and DDI substantially increased survival rates.

Physicians have been tantalized by the puzzle of people with longstanding HIV infections who haven't developed symptoms. Dr. Jay Levy of the University of California, San Francisco, discovered that their immune systems naturally produce a substance that temporarily halts replication of the virus. It seems able to fend off the virus' ravages for as long as a decade, says levy, and could be useful in developing effective drugs.

As the conference ended, there was much apprehension among participants over whether they would meet again in 1992. Many said they won't attend next year's meeting in Boston if the restrictive U.S. immigration policy isn't changed; conference organizers may even cancel it. The U.S. Public Health Service recently recommended eliminating all but active TB from the list of eight infectious diseases that preclude entry to the United States. So far, the Bush administration has rejected that advice. Like

many other aspects of AIDS, the outcome of this conflict is still uncertain.

INNOCENT GIRL'S BLOOD ON POLITICIANS' HANDS

(By Ray Kerrison)

In what may have been her last public communication before she dies, Kimberly Bergalis indicted the American public-health service in terms that haunt her soul. Her blood, she said was on their hands.

You bet it is, Kimberly Bergalis was a beautiful, healthy Unviersity of Florida student, as innocent as the sun in the sky, when she contracted AIDS from her dentist, Dr. David Acer. Now, at 23, she's a 70-pound skeleton, bedridden, wracked by pain, burning with fever, begging God to release her from her agony.

She is dying because the political and public-health systems are more interested in protecting the wayward, the deviant and the promiscuous than the upright.

She understands it so clearly that she wrote a letter to a health investigator that should sear the conscience of every politician, doctor and health worker in the country.

"Whom do I blame?" Kimberly wrote. "Do I blame myself? I sure don't. I never used drugs, never slept with anyone and never had a blood transfusion.

"I blame Dr. Acer and every single one of you bastards. Anyone who knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You're all just as guilty as he was. You've ruined my life and my family's."

The unforgivable fact of Kimberly's impending death is that it is so unnecessary. She was infected when she had two teeth extracted in December 1987—three months after Dr. Acer, a bisexual, was diagnosed as having AIDS.

She was like a lamb led to the slaughter. The whole political, medical and public-health system of Florida, as they do in so many states, including New York, joined in a conspiracy of silence to shield Dr. Acer's deadly disease and allow hundreds of patients to be exposed to his infection. If this is not cold-blooded, deliberate dereliction of duty on a massive scale, I don't know what is.

After contracting AIDS, Dr. Acer treated 1,700 unsuspecting patients before he died last September. He is believed to have infected four others in addition to Kimberly.

Kimberly concluded her letter, "If laws are not formed to provide protection, then my suffering and death was in vain. I'm dying, guys, Goodbye."

You'd think, Kimberly's plight would trigger universal dismay and anguish. Not in New York. Our state officials studied her tragedy and shrugged it off.

A hundred Kimberly Bergalises could be sacrificed and New York's so-called public-health officials would not be moved. Why? Because they are political and medical cowards.

The nation's leading health groups—the American Medical Association and the American Dental Association—have both taken the unequivocal position that doctors and dentists infected with the AIDS virus should warn their patients or give up surgery.

That's just common sense, but the New York State Health Department trashes it. Its policy is that health-care workers infected with the AIDS virus need not tell patients and certainly they may continue to operate or perform other invasive procedures. The department holds that patients don't have a legal right to know the health status of doctors or dentists given them care.

Dr. David Axelrod, as the state commissioner of health, made this policy in the winter, shortly before he was stricken with a stroke. He claimed the chance of being infected by a doctor or dentist was one in 100,000 or one in a million. He apparently liked those odds. They are not so great if your name is Kimberly Bergalis.

Dr. Axelrod was not alone. Gov. Cuomo, Mayor Dinkins, the city's health commissioners and most politicians have consistently opposed mandatory reporting of the AIDS virus, even though it is the law for all other sexually transmitted diseases such as herpes and syphillis.

Why is AIDS, the deadliest of all such diseases, the lone exception? Because New York's politicians, especially Cuomo and Dinkins and their government departments, are prisoners of the radical homosexual lobby. They place the public's health at risk rather than offend the militants in ACT-UP.

The day may come when New York will have its own Kimberly Bergalis. If it does, watch out. That's when the politicians and health authorities will be held accountable.

Mr. THURMOND addressed the Chair.

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

Mr. THURMOND. Mr. President, I rise in strong support of the Helms amendment. This important amendment will make it a criminal offense for a doctor or other health care provider who is infected with the HIV virus to provide medical treatment without prior notification of such infection. Those who fail to warn their patients of such infection face a mandatory term of 10 years in prison.

Mr. President, I have great sympathy for individuals infected with the AIDS virus. However, those who recklessly provide medical treatment to unknowing patients without informing them should be held accountable. Any physician, dentist, or other health care provider who chooses to perform invasive procedures knowing he or she has the AIDS virus is causing the patient to take a deadly risk. Common sense dictates that the interested patient, not the physician with AIDS, make such a decision. Physicians take an oath to preserve life. This amendment ensures that they will take no such step to endanger a life.

For these reasons, I urge my colleagues to support the Helms amendment.

Mr. CRANSTON. Mr. President, the amendment of the Senator from North Carolina [Mr. HELMS] should be rejected by the Senate. It is a wrongful amendment—in its substance and in its timing.

Next week the Centers for Disease Control is expected to issue guidelines for health care workers and AIDS. I have no idea what these guidelines will contain. But I do know one thing: The CDC guidelines will be far more carefully considered and drawn—and based upon substantial consideration and input by experts and laypersons alike—than is the case of the amendment by the Senator from North Carolina. Because here we are again: Faced with legislation that will set not only American health policy with respect to one of the most serious health issues of our times, but also set severe criminal penalties for violating that policy—in a short period of debate on the floor of the U.S. Senate.

Mr. President, I think it unconscionable for the Senate to act so precipitously on a health issue of this gravity. We simply do not know what we are doing. We have no evidence that the amendment of Senator from North Carolina is a sound response to the issue at hand and that it would be effective in reducing the risk of infection to patients by HIV infected health care workers.

I totally understand—indeed, I share—the deep concern of any person over the possibility of transmission of the AIDS virus by a doctor or dentist or any other health care worker. But I think a very important question must be asked: Will this amendment, if enacted, reduce the risk of HIV transmission from health care workers to patients? It seems to me that what we want is for HIV-infected health care workers—as we want for all HIV-infected Americans—is to take actions that will reduce the risk to themselves and to others. Might it be that threatening health care workers with jail would tend to discourage them from being tested—and for those who know their status, to make them more fearful of seeking treatment out of fear of disclosure?

There is a another question that I find really goes to the heart of what is proposed by the Senator from North Carolina: Given all we know about this issue—and more importantly, what we don't know—is the behavior of HIV-infected health care workers an appropriate area for Federal criminal law? Is it an appropriate area for Federal—and I emphasize Federal—regulation at all?

Mr. President, I agree with the American Medical Association when it says that physicians doing invasive procedures have both a responsibility to determine their HIV status and they have an ethical obligation to avoid any professional activity which has an identifiable risk of transmission of the infection to a patient, or to obtain informed consent from a patient.

But is specifying and controlling these questions of professional ethics something the Federal Government should do?

Of all the issues affecting the doctor/patient relationship and the health of the patient, why does the Senator from North Carolina single out AIDS? If the Government is to dictate professional ethical standards and penalties for the practice of medicine, why don't we specify standards for professional com-

petence? Why don't we establish a standard by which the successful procedures record of a surgeon can be evaluated in terms of the risk it poses to a propective surgical patient? What about other deadly infectious diseases? What about alcoholism, drug addiction, state of mind, or overall mental health.

Mr. President, I strongly oppose the amendment of the Senator from North Carolina. I think it is the wrong way to go—and I think it is particularly inappropriate at this time, knowing as we know that the CDC guidelines on this issue are about to be issued. I hope other Senators will share my view and accordingly vote no on the Helms amendment.

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. HELMS. 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. HELMS. Mr. President, first I want to thank my long time friend and distinguished Senator from South Carolina [Mr. THURMOND] for his cosponsorship of this amendment, and for his endorsement of it. He was eloquent, as usual.

I want to suggest to the managers of the bill, since there seems to be no rush to criticize it, that we enter into a time agreement. I see Senator DOMENICI and I was just going to suggest to the Senator and the Senator from New Mexico that he may want to propound a request for a time agreement, a time limitation.

Mr. DECONCINI. Will the Senator yield?

Mr. HELMS. I will certainly yield.

Mr. DECONCINI. I do not think it is, as they say, in the cards to secure a time agreement.

Mr. HELMS. I see.

Mr. DECONCINI. From what I can gather—I have had a chance to look at the Senator's amendment—I very likely may end up supporting him.

Mr. HELMS. I thank the Senator.

Mr. DECONCINI. I am not the one to debate the Senator from North Carolina and that is why he has not seen me here. I might ask the Senator from Massachusetts to let us set this amendment aside and move to some other amendments that I think we can handle if we cannot seem to get the Helms amendment moving along to a conclusion today.

Mr. HELMS. What goes around comes around, does it not? That is what I have had with this amendment for 2 or 3 days.

I understand the position of the distinguished manager. I am not being critical of the Senator in the slightest. I thank the Senator for his cooperation. So we will just wait to see and do the best we can.

Mr. DOMENICI. Will the Senator yield without losing his right to the floor?

Mr. HELMS. Certainly.

Mr. DOMENICI. As the Senator knows, this is one of the appropriation bills and we were asked by the chairman of the committee to move it in its normal course. We are second this year. What our chairman, Senator DECONCINI, was alluding to, is if indeed it seems this is going to precipitate a prolonged discussion, which obviously one is entitled to within the rules of the Senate, we only have two or three contested amendments, I think we would do well to suggest to the Senator that we might try to get time agreements on a couple of them. Then, perhaps, get those sponsors to come to the floor and ask those involved in the pending amendment if they would let us take up these others with a time agreement.

Does the Senator not think we might do that with these other amendments?

Mr. DECONCINI. Yes.

Mr. DOMENICI. What does the Senator from North Carolina think of that?

Mr. HELMS. That is perfectly agreeable to me. I have managed bills before and I know how it is to sit there and waste time.

Let me ask this of the managers of the bill. I know they will. I would like to keep protected in case any motion is made. I would ask them to put in a quorum call before any action is taken on any motion made.

Mr. DOMENICI. We will do that as a matter of course. I appreciate the Senator reminding the Senator from New Mexico of it. There is no problem with that.

I ask the Senator from Massachusetts, if we get a couple of amendments on which we have a time agreement, would he be agreeable?

Mr. KENNEDY. I would be more than happy to agree.

I would like to speak briefly on this. Then I would agree.

Mr. DOMENICI. I thank the Senator.

Mr. HELMS. Mr. President, I have not yielded the floor. I shall in just a moment. I do thank the Senators. Under the circumstances I think I will go over and see if my office still exists.

Mr. DOMENICI. I thank the Senator.

Mr. HELMS. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Senator from North Carolina has introduced legislation that would affect thousands of health personnel in this country and require that they be tested and, should the circumstances outlined in the amendment take place, be penalized for not less than 10 years in jail.

He has portrayed this amendment as a way to protect the American consumer. Nothing, quite frankly, could be further from the truth. That is why, Mr. President, the amendment should, at an appropriate time, either be defeated or be tabled.

I had not expected that this amendment would be up at this time because it proposes legislation on an appropriations bill. Many of us have been involved, or at least I have been over at the Armed Services Committee in the hope that we will be able to conclude the work on authorized legislation with regard to the administration's request. But I was just notified in the past few minutes about the Senator's amendment, and I would like to make some brief remarks.

Mr. President, all of us have an enormous sense of sadness and grief about the terrible tragedy that has happened to Kimberly Bergalis. I think all Americans feel indignation at her loss as a result of a dental procedure which allegedly has caused her to be not only HIV positive, but also to have the disease of AIDS from which she is now suffering.

If this particular amendment would do anything about her particular case, I would be in strong support of it, but it does not. That is why every major health association does not support this particular amendment but supports the efforts that are taking place at the Centers for Disease Control under Dr. Roper, who is the head of the Centers for Disease Control and who expects to promulgate guidelines and regulations in the early part of next week.

So any action is really precipitous prior to the time that Members of this body are permitted to examine those rules and regulations that would be applicable to health care workers and HIV transmission. That is the responsible way to proceed.

It is interesting that the Senator from North Carolina, in really only a few days before the promulgation of these regulations, wants to, in effect, come to judgment on this issue, prior to the opportunity for those who are concerned about the public health issues, and who have prime responsibility in this area as in other areas of public health, to issue regulations.

The Centers for Disease Control has been considering a variety of different concerns such as the mandatory testing and disclosure which the Senator from North Carolina talks about. They talk about issues involved with mandatory testing, the expense of testing for all members of the medical profession that perform invasive procedures, and what the effectiveness of the test is on any given day. An individual may actually have contact or be infected by the HIV virus in the month of March, and be tested in April, but it takes 3 months for the current test to be valid.

So what are we going to do with the medical profession? Are we going to

test them every week, every month, or is everyone going to feel that if they support the Helms amendment and we know our doctors are being tested, that they will have the good seal of approval and cannot possibly have HIV? But look carefully at what is being studied by the Centers for Disease Control, and the difficulties show up. Even with the conduct of testing, it is very difficult to come up with an accurate prediction about who is going to be infected and who is not.

Second, Mr. President, the Centers for Disease Control is very concerned that, if they promulgate regulations about mandatory testing, anyone that has HIV and perform an invasive procedure is going to have 10 years in jail. They wonder whether individuals who may or may not have contracted HIV, are going to risk going down and having a test, because if they go down and have a test and then are involved in an invasive procedure, they will go off to jail for 10 years.

So what has been the public policy consideration there? Public health officials have found out when you have the mandatory test for a particular group, you drive the individuals who are most likely to have the HIV positive underground. That, quite frankly, is why the Centers for Disease Control believes that you may very well, with this kind of amendment, open up a greater kind of health hazard for the patients in this country, rather than considering some other kind of process or public policy with protections which may achieve what is the objective of all of us: to provide absolute safety, to the extent absolute safety can be achieved, for patients in this country.

These are some of the concerns I will include in the RECORD at this time, as we have not all been given an opportunity the CDC has had to review the various positions of just about every health professional organization on this particular issue. I am going to include some of those in the RECORD so Members will have a chance to review it, because they should.

This is an extremely important public policy. I mean, how easy it would be for this body to vote on this 95 to 5 and begin to believe that they are providing protection for the American people.

Some would say we have done our best. We would have said that anybody who is HIV positive goes to jail for 10 years, so any time you go to the dentist or have an operation, you are absolutely safe. Baloney, baloney. That is effectively what the Centers for Disease Control says about this particular amendment: baloney. What Dr. Roper says about it is his desire to first promulgate the regulations and permit the Members of the Congress, and the American people, and the American health professionals, a chance to review them and make recommendations, and then put into effect what is a sound public health policy.

That, Mr. President, is why it is important, and why effectively we will wait, until the promulgation of those regulations before taking any kind of action on this. Senators are quite entitled to votes, and I do not question the ability of the Senator from North Carolina to get a vote on this measure or another measure like it. I would not object to establishing a time where such a vote may take place. But it will not take place prior to the time that the Centers for Disease Control promulgates these regulations, which are enormously important.

Mr. President, many of us have been around here long enough that we have seen games played on the whole issue of the HIV, and have seen how easy it has been to play on the fear and trepidation of individuals. We have seen how ideology can take over and drive our public policy. But I thought we moved beyond that, Mr. President, when we passed the Ryan White bill last year, named after a brave young man, a teenager, a hemophiliac, who contacted AIDS as a result of a blood transfusion. I remember his mother being in this gallery and out in the reception room, pleading with tears in her eyes that we not address this issue in the context of an ideological debate, but that we should resolve this issue on sound public policy.

We heard speeches here regarding the authorization for the Ryan White bill. We passed that bill overwhelmingly, overwhelmingly in a bipartisan way.

We were not able to get the appropriations that we wanted but we made some modest advances even in this first year. But in speech after speech, Senators rose saying—let us finally put ideology and fear behind us and put sound public policy ahead. I wonder if we need Ryan White's mother to come back up here in the gallery and look down on the Members here and shame them into a conscionable and responsible vote. If that is what we need, that is what we will have, if she would be good enough to come back here. We will find out if this institution, these individuals, can be frightened right back into a shell. I hope that would not be the case, Mr. President.

But it seems to me that if we are going to try and effectively run roughshod over the Senate rules about legislating on appropriation—that is what is being done, and every one of us know that—we can send this amendment to the desk, and we know what the drill would be: Appeal the decision of the Chair on this kind of an emotional issue, run roughshod over the Senate rules, and stampede the Senate into a vote. Well, it will not happen this afternoon. It will not happen tomorrow, if the Senate comes in. If the Senate wants to go and proceed on the issues of cloture, so be it. I want to see those 60 names on it. I want to send those names right out to Ryan White's mother.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD.

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

DEPARTMENT OF HEALTH & HUMAN SERVICES, PUBLIC HEALTH SERVICES,

Atlanta, GA.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC

DEAR SENATOR KENNEDY: In August 1987 the Public Health Service published guidelines addressing the appropriate use of human immunodeficiency virus (HIV) antibody testing in health care settings ("Recommendations for Prevention of HIV Transmission in Health-Care Settings," *MMWR* 1987; 36:1-188). The report of a possible transmission of HIV to a patient during an invasive dental procedure (MMWR 1990; 39:489-493) has prompted a review of existing guidelines.

This matter is currently under scientific evaluation. Comments have been obtained from members of the scientific, medical, and public health communities, as well as from members of the public at large. Additional opportunities for comment and review will be provided to all interested parties. A decision on the need for revision of guidelines, as well as the form that such new recommendations might take, is expected once this process is completed. I believe an open, thorough, scientific review of this matter, with no preestablished conditions or restrictions of any kind, is of critical importance to the public health of this Nation.

We look forward to working with all interested parties in developing appropriate science-based recommendations to protect the public health.

Sincerely,

WILLIAM L. ROPER, M.D., M.P.H.,
Director

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME,

Washington, DC, July 11, 1991.

On July 11, 1991 the National Commission on AIDS unanimously adopted the following resolution:

The National Commission on AIDS has followed the issues involved in HIV testing in the health care workplace with close attention. We have worked with the U.S. Public Health Service and have participated in the careful deliberations sponsored by Centers for Disease Control in February 1991 which involved testimony from over 100 individuals and organizations with a broad array of experience and/or expertise. We strongly urge Congress to refrain from enacting any legislation that would preempt this important process in advance of the release of, and orderly comment on, proposed revised guidelines concerning HIV safety in the health care workplace.

STATEMENT OF THE AMERICAN MEDICAL ASSOCIATION TO THE CENTERS FOR DISEASE CONTROL

(By Nancy W. Dickey, M.D.)

RE: HIV Transmission During Invasive Procedures.

My name is Nancy W. Dickey, M.D. I am a family physician practicing in Richmond, Texas and I am a member of the American

Medical Association's Board of Trustees. With me is M. Roy Schwarz, M.D., the AMA's Senior Vice President for Medical Education and Science. We appreciate this opportunity to comment on the Centers for Disease Control (CDC) risk assessment data on HIV-infected health care workers and to offer the AMA's assessment of these risks.

The AMA appreciates how difficult it is at present to estimate the risk of infection to patients by HIV and HBV infected health care workers. Unfortunately, there is enough data to alert us that transmission of HIV from an infected health care worker has occurred, but not enough data to describe with confidence how extensive the problem is.

Basic Principles. The problem of the HIV-infected physician is a difficult one. There are no perfect solutions. However, the AMA believes certain basic principles should guide the CDC and the medical profession.

First, a physician who has a transmissible and fatal disease should not place his or her patients at risk. That has been the view of the AMA's Council on Ethical and Judicial Affairs, which maintains the Code of Ethics that is generally regarded as the medical profession's code, for a long time.

It has also long been the view of AMA's Ethics Council—confirmed by common sense and now by the CDC's recent report regarding the Florida dentist who appears to have infected three patients—that the risk of transmission from an HIV infected physician during certain invasive procedures is very low but real. So some restraint on invasive procedures is necessary as a matter of the oldest precept of medical ethics—that *the physician shall do no harm.*

This is not a new or reactive position of the profession, and it is really the only acceptable position. Attached is the Ethics Council's opinion on the issue dated December, 1987. Moreover, taking this position we are acutely aware of the rights—as well as the duties—of physicians and other health care workers infected with AIDS.

Some four years ago the American medical association challenged the view of the Department of Justice that the Rehabilitation Act did not protect people with AIDS from irrational discrimination. The AMA filed a brief *amicus curiae* in the Supreme Court in the landmark case *School Board of Nassau County* v. *Arline,* 480 U.S. 273 (1987), arguing that persons with infectious diseases, including AIDS, were "handicapped" within the meaning of the Rehabilitation Act, and we offered a four part analysis for determining when such individuals were fully protected under the Act. The Supreme Court disagreed with the Justice Department and said "we agree with amicus the American Medical Association" and then quoted the key test as presented in our brief (480 U.S. 273, at 288). AMA then filed medical/legal briefs supporting the rights of persons with AIDS to be free from arbitrary discrimination in the leading cases in the courts at the time, including *Ray v. School District of DeSoto County,* 666 F. Supp 1524 (M.D. Fla. 1987) and *Chalk (Doe) v. Orange County Department of Education,* (9th Cir. 1987).

Secondly, the chief complication of this position cited by certaing groups involves a policy that *the AMA opposes—mandatory testing of physicians.* When the very low probability of a surgeon acquiring AIDS from an infected patient is multiplied by the even lower probability that the same physician would then transmit the infection to patient, the risk to patients of becoming infected is virtually immeasurable, much lower than the risk that an *already* infected surgeon would transmit the disease.

Physicians who are at some measurable risk of acquiring AIDS—because they do significant invasive procedures on many HIV-infected patients or for other well-known reasons—do have an obligation to determine their seropositive status—to protect their loved ones as well as their patients—but this is by no means all surgeons or all physicians who do any invasive procedures.

Physicians who are HIV-positive have an ethical obligations to avoid any professional activity which has an identifiable risk of transmission of the infection to a patient. Or, they may proceed with the patient's informed consent. We believe that AMA's longstanding policy continues to be the best for physicians and patients. It will work because it reflects a fundamental tenet of professional ethics by which the vast majority of physicians abide. Indeed, many infected physicians have voluntarily restricted their practices. It will work because the liability risk to physicians and the improved treatment techniques for HIV infection will cause those at significant risk to be tested and seek help. It will work because AMA pledges to stand by and help the small number of physicians whose practices must be restricted.

Even if the policy is not universally effective, it is better than any of the alternatives. And patients are certainly better off knowing that the profession hs publicly reaffirmed that their interests will always come first.

CDC Risk Model. You have asked also for our comments on the CDC's risk model. The CDC's attempt to assess the risk and calculate the number of patients infected by physicians is based on a series of assumptions as the CDC correctly concedes. Although these assumptions are well-reasoned, different but equally reasonable assumptions would have a significant effect on the CDC estimates and alter the risk estimates for patients.

For example, the CDC's risk model is based on an infected health care worker receiving a needle stick during an invasive procedure and the contaminated needle coming into contact with the patient's wound. The model does not take into account other mechanisms of patient exposure such as bleeding into a patient's wound, skin and mucous membrane exposure, or contaminated instruments.

Another factor limiting the accuracy of the CDC's estimates is the uncertainty over how many surgeons and dental workers are HIV-positive. The CDC's method for estimating the number of surgeons with HIV infection relies on other imprecise estimates such as the number of people in the U.S. infected with HIV. This multiplies the chance of error.

Other limitations of the risk model and the estimates are spelled out in the CDC's draft document. Therefore, it would be appropriate for the CDC to conclude that at this time it is not possible to calculate an accurate estimate of the risk of transmission of HIV from health care worker to patient.

Let me again emphasize that the Association's policy is based on the principle of medical ethics that the health of patients must always be the paramount concern of physicians. Therefore, because of the uncertainty about the risks to patient health, physicians should err on the side of protecting patients.

In reaffirming this policy, the AMA gave thoughtful consideration to the consequences or "ripple effects" of our position. For example, some say that our policy will lead to mandatory HIV testing for those who perform invasive procedures or that, because of the economic consequences, fewer physicians will be willing to risk infection by performing invasive procedures on HIV-positive patients. We strongly disagree. Mandatory HIV testing for health care workers would be no more successful or cost-effective than mandatory testing for marriage license applicants. Two states tried mandatory testing for marriage license applicants but the low incidence of HIV infection in this population led to repeal in both states. In addition, testing of health care workers would need to be done periodically and even then there would be infected health care workers who would test negative because they had not yet seroconverted.

We also reject the suggestion that surgeons would violate our ethical obligation to treat HIV-infected patients out of fear of the economic consequences of becoming infected. Physicians treating HIV-infected patients have already accepted the small but real risk of life-threatening health consequences and will not be deterred by economic consequences to their medical practice.

AMA/Yale Task Force. We know there are no easy answers for HIV-infected physicians. We would like, however, to reassure HIV-positive physicians that the AMA's pledge of support is serious and not limited to AMA members. We have organized a Task Force on Personal and Educational Needs of HIV Infected Physicians. Working with a group at Yale, this Task Force will address current resources available, new resources needed, specific projects appropriate for the AMA, and potential roles for organized medicine and others.

We have focused these comments on HIV and not HBV. This is because the risk of transmission of HBV between surgeon and patient has been identified for some time. Existing CDC guidelines already call for exclusion of HBV infected health care workers under certain circumtances. Aggressive efforts by the AMA and other health organizations toward the vaccination of health care workers against HBV can eliminate the problem of HBV transmission to patients in the future. In the meantime, hepatitis B immune globulin is available to treat those exposed to HBV. On the other hand, there is no comparable vaccine or treatment for HIV, so we believe that the number of HIV-infected individuals and health care workers will grow and the risk of transmission will remain.

Conclusion. The AMA commends the CDC for drafting a carefully considered model for calculating the risk of HIV transmission to patients during invasive procedures. Unfortunately, the AMA finds that there is simply insufficient data to allow this model to yield useful estimates. This being the case, we recommend that the CDC acknowledge the limits of current knowledge and emphasize patient protection as the foremost consideration of CDC guidelines.

COUNCIL OF STATE AND
TERRITORIAL EPIDEMIOLOGISTS,
July 5, 1991.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: I understand that the Senate may soon be considering an amendment to S. 1241 which would force states seeking federal funding for health programs to require health care workers who know they are infected with HIV to disclose that information to their patients.

As president of the Council of State and Territorial Epidemiologists (CSTE), I re-

quest that you oppose this amendment. My reasons for this request include:

1. There is no risk of HIV transmission from most health care providers to their patients. Even for health care workers who perform invasive procedures such as surgery, this risk is extremely small.

2. State laws requiring health care providers who know they are HIV-infected to notify their patients may actually increase the small risk of transmission to patients. Under such laws, a health care worker can avoid losing his or her livelihood simply by not being tested and by remaining ignorant of his or her HIV infection. This is perhaps the most dangerous scenario—an HIV-infected surgeon who is ignorant of his or her infection, who has not sought advice for protecting patients, and who is not practicing routine infection control precautions with special attention.

3. Solving the problem raised in item 2 by requiring periodic testing of health care providers would be far too costly relative to the minuscule risk such a measure would address.

I strongly believe that an approach which seeks the voluntary cooperation of an HIV-infected health care worker for protecting patients is much more likely to be effective than the proposed mandatory approach. An example of such a voluntary approach as used in Oregon is described in the attached "CD Summary".

Thank you for considering my request. If I, or other members of CSTE can provide additional information to help you as you consider this complicated issue, please let me know.

Sincerely,

LAURENCE R. FOSTER, M.D., M.P.H.,
President.

STATEMENT OF THE AMERICAN HOSPITAL ASSOCIATION BEFORE THE CENTERS FOR DISEASE CONTROL ON REDUCING THE RISK OF HIV AND HBV INFECTION DURING INVASIVE PROCEDURES—FEBRUARY 21, 1991

Good morning. I am Gina Pugliese, Director of Infection Control and Environmental Safety of the American Hospital Association (AHA). On behalf of AHA's nearly 5,500 institutional members and almost 48,000 individual members, we are pleased to have the opportunity to comment on the CDC's draft document: "Estimates of the risk of endemic transmission of HBV and HIV to patients by the percutaneous route during invasive surgical and dental procedures," and the implications of these risks.

The AHA recognizes the public concern regarding transmission of HIV and HBV and we support efforts to protect healthcare workers and patients against the transmission of these bloodborne pathogens. Toward that end, in 1987 we recommended that our member hospitals voluntarily implement universal precautions as recommended by the CDC because we believe that the adoption of universal precautions is the most effective means of reducing the risk of infection for hospital staff and patients. We recognize the CDC's important leadership role in assisting healthcare institutions, professional associations, and healthcare workers in the control of transmission of HIV, HBV and other bloodborne pathogens through its ongoing investigation, surveillance, education and coordination of efforts as demonstrated by the present meeting.

After a careful review of the available risk assessment data, the AHA does not believe a change in our current position is indicated at this time. Our present position states:

UNIVERSAL PRECAUTIONS

The AHA believes that the adoption of universal precautions is the most effective means of reducing the risk of infection for hospital staff and patients.[1]

Adherence to universal precautions . . . will minimize the risk of HBV and HIV infection and other bloodborne pathogen infections from hospital personnel to patients during all types of interactions, including invasive procedures.[2]

Hospital policies and practices should enforce the observation of universal precutions through effective monitoring of compliance, combined with counseling, education, retraining and, if necessary, disciplinary action for employees and medical staff members who fail to follow protective measures.[1]

MANAGEMENT OF HEPATITIS B AND HIV-INFECTED EMPLOYEES

HBV and HIV-infected employees do not need to be removed from patient care responsibilities if they are otherwise capable of performing their tasks . . . As with all other potentially impaired healthcare workers, decisions about whether symptomatic HBV or HIV-infected healthcare workers can adequately and safely perform their duties requires consideration on an individual basis. Factors to be considered in formulating institutional policies regarding personnel with HBV or HIV infection should include the functional health status of the employee, the nature and scope of the employee's patient care responsibilities, and the ability of the employee to perform his or her duties safely.[2]

Hospitals should establish a mechanism to evaluate the hospital employee to determine whether the employee known to be infected with HIV or HBV can adequately and safely perform patient care duties, including invasive procedures, and if indicated, to suggest changes in work assignments. Periodic reevaluation of the symptomatic infected employee should be provided.[2]

HIV TESTING

Routine testing of staff is not recommended. Moreover, such screening should not be substituted for rigorous adherence to universal precautions . . . Reliance on staff testing may undermine rigorous adherence to universal precautions.[1]

Providing patients with the HIV status of their caregivers and allowing them to decline the services of infected staff is as unacceptable as the parallel use by caregivers of patient HIV status to refuse to treat infected patients.[1]

MODIFICATIONS IN INVASIVE PROCEDURES

If there are acceptable modifications in invasive procedures that can further minimize the risk of exposure, ideally they should be incorporated into established practices for all patients in order to afford maximum protection of all patients and staff.[1]

MANAGEMENT OF EXPOSURE OF PATIENTS

If a patient experiences parenteral or mucous membrane exposures to blood or body fluids of a healthcare worker, the patient should be informed of the incident . . . and receive appropriate follow-up.[2]

UNIVERSAL PRECAUTIONS—DISINFECTION AND STERILIZATION

Instruments and other non-disposable medical devices that enter normally sterile tissue, the vascular system, or areas through which blood flows should be sterilized before reuse. Instruments or other non disposable medical devices that touch intact mucous membranes should be sterilized or receive high-level disinfection.[2]

INVASIVE PROCEDURE IS DEFINED AS:

"Surgical entry into tissues, body cavities, or organs, or repair of traumatic injuries in an operating or delivery room, emergency department, or outpatient setting, including both physicians and dentists offices; cardiac catheterization and angiographic procedures; vaginal or cesarean delivery or other invasive obstetric procedure where bleeding may occur; or manipulation, cutting or removal of any oral or perioral tissues, including tooth structure during which bleeding occurs or the potential for bleeding exists.[2]

The AHA would also like the CDC to consider the following recommendations when developing guidelines for the prevention of transmission of HBV, HIV, and other bloodborne pathogens to patients during invasive procedures:

Include a strong emphasis on the need for hepatitis B vaccination of all healthcare professionals that have exposure to blood, including those performing invasive procedures, with emphasis on vaccination in schools of medicine, dentistry, nursing, laboratory technology and other allied health professions before they have their first contact with blood.

Assign a high priority to additional research on assessment of risk of HIV and HBV from infected healthcare workers to patients during invasive procedures so that "actual" rather than "estimated" risks can be used in the development of guidelines to reduce risk.

Provide guidelines to assist clinicians and institutions in their "case-by-case" decision about whether an HBV or HIV-infected healthcare worker can adequately and safely perform his or her duties. Consider suggesting that the evaluation of the infected workers be patterned after the evaluation of other "impaired" healthcare workers.

Identify and recommend modifications in surgical or dental procedures that reduce the risk of exposure to both the patient and the healthcare worker, including surgical techniques and the use of specific engineering controls. Additional research and cooperative efforts with professional associations is needed to identify these modifications.

In closing, the AHA believes that any guidelines for reducing the risk of transmission of bloodborne pathogens in the healthcare setting should be based on sound scientific data and balance both the interest of the healthcare worker and the patient.

Again, we appreciate this opportunity to present AHA's views and recommendations. I will be happy to answer any questions.

FOOTNOTES

[1] AIDS/HIV Infection: Recommendations for Healthcare Practices and Public Policy—Report of the AHA's Special Committee on AIDS/HIV Infection Policy 1987–88.

[2] Management of HIV Infection in the Hospital—Recommendations of the AHA's Technical Panel on Infections Within Hospitals, 1988.

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS,
McLean, VA, July 8, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: We the undersigned organizations representing the chief public health agency officials and state legislatures throughout the 50 states, the District of Columbia and the U.S. Territories hereby come together to express our strong opposition to any legislation or amendment prescribing state laws that are prerequisites to receiving federal health funds.

Several amendments have recently been offered which would require that states re-

ceiving assistance under any federal health grant have in effect specific laws requiring disclosure of HIV serostatus between patients and their health care providers. First, such a requirement severely undermines the efforts of state and local public health officials to develop health policy and legislation within their jurisdiction which best addresses the distinct needs of those states and localities. We strongly believe that it is the explicit responsibility of state and local health officials, legislatures, and citizens to determine the laws most appropriate to govern the health of the residents of the states and localities. At least thirteen states have already written or passed legislation to address the extremely low risk of HIV transmission between health care professionals and patients.

Secondly, in defining treatment as "the performance of any medical diagnosis or procedure that involves a physical contact between the patient being treated and the physician or health professional administering the procedure," these amendments heighten irrational fears and misconceptions about the transmissibility of HIV. Medical experts and researchers have conclusively determined that HIV infection cannot be transmitted by the casual contacts included in so broad a definition of treatment. Further, we believe that the current debate, limited in fact to the minimal risks of transmission through invasive procedures, should remain within the purview of the Centers for Disease Control and other public health organizations, and that any associated legislation should be designed for states and localities by states and localities.

The undersigned organizations are interested in participating in the continuing dialogue on the issue, and welcome the opportunity to meet with you or your staff to discuss our views in more detail.

Sincerely,

JOHN C. LEWIN, M.D.,
President, Association of State and Territorial Health Officials.

JOHN E. ARRADONDO, M.D., M.P.H.,
President, U.S. Conference of Local Health Officers.

WILLIAM H. MCBEATH, M.D., M.P.H.,
Executive Director, American Public Health Association.

AMERICAN NURSES ASSOCIATION,
Kansas City, MO, July 5, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: I am writing to urge you to postpone action on any legislative proposals regarding mandatory disclosure of health care workers' HIV status. The American Nurses Association (ANA) understands the global extent, complexity and significance of the public health problem presented by the human immunodeficiency virus and AIDS. We believe that patients and health care workers have the right to protection against transmission of the HIV virus in all health care settings. A new ANA position reflects our long-standing concern both for the public health and for the safety of health care workers.

Last week the ANA House of Delegates debated and developed the attached position statement, reaffirming our commitment to quality patient care. The ANA position notes that HIV transmission is halted by strict adherence to universal precautions and infection control practices, as well as by intensive education of consumers and health care professionals. Mandatory testing and mandatory disclosure of HIV status will not prevent the transmission of HIV disease from patient to health care professional or from health care professional to patient.

The ANA statement suggests the development and broad dissemination of recommendations from a national consumer advisory body—recommendations which can translate infection control knowledge and skill to every person's home and work setting. We note that there are no cases identified of patients who contracted HIV disease from health care workers when those workers followed universal precautions. Patients should demand that nurses, physicians, dentists and other health care providers follow established infection control guidelines to prevent the spread of the virus that causes AIDS. Moreover, ANA supports annual inspections of hospitals, clinics and provider offices to ensure strict infection control procedures and training for health care workers to ensure that they understand universal precautions.

We understand that very soon you will be considerating legislative proposals designed to protect patients from the risk of HIV infection from health care workers. We are deeply concerned that these proposals would mandate states to require mandatory disclosure of HIV status by health care professionals and/or will mandate HIV testing of health care workers. ANA urges you to reject any such proposals.

We have heard from many of our 53 state and territorial nurses associations about their capability, authority and desire to design, implement and enforce their state-designed public health policy. State departments of health have had a long history of exercising those skills and in regulating public health activities in each state. Many state nurses associations report that their states are already in the process of developing policy for health care workers with HIV and AIDS.

There is a second primary reason why ANA urges you to delay action on the pending legislation which would require health care workers to have HIV testing and/or disclosure of results. The Centers for Disease Control (CDC) is due to release guidelines related to HIV infected health care workers. Since the CDC has a mission of developing public policy in public health, and since there has been public review and comment to CDC about the issues involved, the ANA believes it is wise to wait for these recommendations before taking legislative action.

Nurses are patient advocates who, since the early days of the HIV/AIDS epidemic in 1982, have been providing nursing care to people with AIDS and to people who are HIV-infected. Our patients' health and safety are paramount. We urge you to reject a quick legislative response to this complex and critical issue. Donna Richardson, R.N., J.D., our Director of Congressional and Agency Relations would welcome the opportunity to discuss this issue with you or your staff. She can be reached at 202/789-1800 ext. 42. We look forward to working with you on an issue of concern to all of us.

Sincerely,

LUCILLE A. JOEL,
ED.D., R.N., F.A.A.N.,
President.

U.S. CONFERENCE OF MAYORS,
Washington, DC, July 8, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senator, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the nation's mayors, I would like to express our concern regarding possible amendments requiring disclosure of HIV status. It is our understanding that Senators Robert Dole and Orrin Hatch may soon be offering amendments to S. 1241 or another vehicle which would (1) require health professionals who have knoweldge that they are infected with the HIV virus to notify patients of their status, and (2) require disclosure of knowingly infected HIV patients to their health care providers. The United States Conference of Mayors believes both of these amendments would be unwise public policy. We urge your assistance in assuring they are not adopted.

As you know, there is and will continue to be debate on the issues surrounding infected health care workers, a debate which has occurred within the United States Conference of Mayors, as well as within other governmental bodies and the public at large. After much discussion, most recently at our Annual Conference last month, our membership believes it is important to make public policy on AIDS based upon scientific evidence, as often the issues surrounding HIV are so emotionally charged as to lead to unsound policy. A debate should continue, but it should be one in which the actual risk of infection to patients is assessed along with an analysis of the benefits—if any—gained from requiring health professionals to notify patients of their HIV status.

The Centers for Disease Control has issued universal precautions for the protection of health care workers and others who may come into contact with HIV infected blood. Such guidance makes clear that, for their own best protection, health care workers should treat each patient as though he or she is infected. Establishment of disclosure laws may only serve to give a false sense of protection to health care workers in those cases where patients do not disclose, either because they do not know of their infection or they choose not to inform the health professional despite the disclosure law. To ensure safety, the health professional will still have to treat everyone as though he or she is infected, using the established universal precautions.

Currently, the Centers for Disease Control is revising HIV guidelines regarding invasive procedures. This is an appropriate area for concern and the appropriate arena to develop policy regarding medical protocol and procedures, given the scientific knowledge of transmission of the AIDS virus through infected blood.

The language contained in the proposed amendment would require disclosure for all knowingly HIV infected health professionals who provide treatment consisting of "any medical diagnosis or procedure that involves physical contact between the patient being treated and the physician or health professional administering the procedure." Such language strongly implies that HIV can be transmitted casually and could only result in yet another round of AIDS hysteria if states are to be forced to enact such laws.

A third area of concern for the Conference of Mayors is the manner in which states are coerced into adopting disclosure laws by holding hostage all federal health funds received by the state. The United States Conference of Mayors believes this coercement to be an infringement on states' rights. Beyond this, it is uniquely unfair to the citi-

zens of the individual states to withhold funds needed for the public health until such time as state legislatures can "rubber stamp" legislation which they may not believe is in the best interest of their citizenry.

For these reasons, The United States Conference of Mayors is opposed to the amendments proposed by Senators Dole and Hatch regarding HIV disclosure. We urge your support in ensuring that public policy on such matters not be made hastily in the heat of emotion. If you or your staff should have any questions regarding our position on this or any other health-related matters, please do not hesitate to contact Richard D. Johnson of my staff at (202) 293-7330.

Thank you for your consideration.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, July 5, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The National Association of Counties has serious concerns about two amendments to the crime bill, S. 1241, that could severely limit the ability of county governments to deliver health care. The two amendments would require disclosure by both physicians and patients who are infected by HIV.

NACo policy supports the voluntary testing of individuals. Clear guidelines should be established by institutions on testing procedures and the use of the information.

NACo opposes the termination of all federal health money for those states which do not enact mandatory disclosure laws. Such an approach places the acutal providers of care at great risk of losing funding due to the decisions of state governments. Moreover, the policies and procedures for monitoring, regulating, testing and notification are functions best administered by local communities which know the unique circumstances of their area. A sweeping federal mandate will do more harm than good to the millions of families benefiting from federal health programs.

If you have any questions about our position, please call Tom Joseph, Associate Legislative Director for Health.

Sincerely,

EDWARD E. FERGUSON,
Acting Executive Director.

THE UNIVERSITY OF MICHIGAN,
Ann Arbor, MI, October 11, 1990.

Hon. EDWARD M. KENNEDY,
Hon. ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: I am writing to voice my concern about recent proposals concerning mandatory policies for health care workers involved in invasive procedures. As a public health head and as a scientist, I want to underscore the importance of taking full advantage of scientific input in the process of crafting public health policy. I believe it would be unwise to supervene present on-going deliberations of the U.S. Public Health Service, since their studies currently in progress are directly germane to the issue of invasive procedure risk.

The extensive federal investment in HIV/AIDS research has paid off remarkably and has given us an excellent armamentarium of insights and techniques with which to assess risks and devise strategies. This in turn allows for fine-tuning of policies appropriate to those scientific findings.

Concerns that have arisen in the past few weeks about possible HIV transmission in the health care setting are currently the subject of intensive study, using the full resources of the Centers for Disease Control under the able leadership of Dr. William Roper. Their results and on-going surveillance will yield a firm basis for public health policy, and I know they are planning to update and revise policies and procedures as indicated by their findings.

I would like to urge that that be the way in which such policies are made. Since we are fortunate to live in an age when our health decisions can be guided by well-founded data and information, it would be particularly unfortunate were that process to be preempted by unwarranted over-reaction or unsubstantiated fear.

Sincerely yours,

JUNE E. OSBORN, M.D.,
Dean, Chairman, National Commission on AIDS.

STATEMENT OF THE AMERICAN ACADEMY OF PEDIATRICS BEFORE THE CENTERS FOR DISEASE CONTROL REGARDING HIV TESTING OF HEALTH CARE WORKERS

(By S. Kenneth Schonberg, M.D.)

The American Academy of Pediatrics is pleased to present our views to the Centers for Disease Control on guidelines regarding HIV-infected health care workers.

Decisions concerning the prevention and control of transmission of HIV should be based on long-standing public health principles and available data. Responsible public health officials have spent the better part of a decade quelling rumors and providing facts about the way in which this disease is acquired. Such educational efforts have resulted in policies throughout the country which enable persons with HIV infection to work, and HIV-infected children to attend school and day care and be placed in adoptive and foster care homes.

The American Academy of Pediatrics currently opposes mandatory, involuntary HIV testing of health care workers. The risk of acquiring HIV infection from a health care worker as a consequence of health care must be very low among the risks of serious complications, including death. Testing and continuous retesting, which would be necessary to establish zero risk, would violate the privacy and civil rights of the individuals tested and yield a very low rate of positives per individual tested, with extraordinary costs in dollars per case of HIV prevented.

Physicians have an obligation to protect their patients from iatrogenic harm. However, fears about acquiring HIV from a health care provider should be put in perspective with other risks of health care and costs of risk reduction.

HIV testing should be encouraged on a voluntary basis for all individuals who engage in high risk behaviors, or who have known exposure to HIV. All individuals who choose to be tested should receive counseling and education about prevention of viral transmission. Health care workers who choose to be tested should receive additional information about the risk of transmission while performing invasive procedures. Training in the use of techniques for reducing that risk should be provided.

Any requirement that pediatricians or other health care workers, especially those who do not perform invasive procedures, reveal their HIV seropositivity to patients or their families would not be in the best interest of public health as no risk has been demonstrated. Such revelation would most certainly result in anxiety disproportionate to the infinitesimal risk of acquiring the virus. Such anxiety could interfere with continuity of care for children as parents seek alternative physicians; result in delays in seeking necessary care; and, in some communities would limit access to care. These adverse effects upon public health would be created without demonstrable benefit to patients and families.

The Academy urges the CDC to address this issue in its usual deliberate fashion, relying on scientific evidence to develop guidelines specifically for health care workers. Reliable data are needed before making sweeping policy changes.

STATEMENT OF THE AMERICAN COLLEGE OF PHYSICIANS BEFORE THE CENTERS FOR DISEASE CONTROL, ATLANTA, GA, FEBRUARY 21-22, 1991

Officials of the CDC and meeting participants:

The American College of Physicians (ACP) appreciates this opportunity to comment on policy issues related to the risks of transmission of HIV to patients during invasive procedures. The College is a national medical organization representing approximately 70,000 physicians practicing internal medicine and its subspecialties, many of whom are on the front lines of caring for HIV-positive patients.

I am Ted Eickhoff, M.D., Director of Internal Medicine, Presbyterian/Saint Luke's Center for Health Sciences Education in Denver, Colorado and a practicing physician. I am also the principal author of the 1988 joint statement of the College and the Infectious Diseases Society of America on AIDS and HIV.

During a recent review of that paper, I was struck by how our statement anticipated many of the issues that have evolved more fully since 1988. In that paper, we recognized the "theoretical" possibility of HIV transmission from provider to patient and noted that it "would be expected to occur only rarely, if at all . . ." In 1991, there are no documented cases of transmission during surgery and only one case—involving a Florida dentist—of apparent transmission.

We made several statements based on what we knew at that time:

Neither routine nor mandatory testing of health care personnel is recommended.

The observance of universal precautions will serve to minimize the risk of transmission of HIV from providers to patients.

The same principle of confidentiality applies just as much to HIV-infected health care workers as to any other person.

HIV-infected physicians, if otherwise able to care for patients (for example, do not have evidence of cognitive impairment due to brain infection), present virtually no risk of HIV transmission to their patients.

The question before the College, as it is for many other organizations, is whether the scientific basis for such policies has changed or there are other factors that should be considered. The purpose of this meeting is twofold: to review the risk assessment data prepared by the CDC and to begin to address policy directions based on that information. It is our view that at this time there is not sufficient new scientific data to change our policy.

This does not mean that we are content with the status quo. We must recognize the very real and legitimate concerns of our patients and search for solutions that will withstand their intense scrutiny. We must offer approaches that are in the best interest

of the public and recognize the wide range of different, individual patient concerns. There is no single patient point-of-view. There are patients whose primary concern is knowing the degree of risk involved in a procedure; others, especially those who are HIV-positive or are in high risk groups, caution that mandatory testing may be just one more disincentive for health care professionals to provide them with care.

In the interest of public health, we recommend that the CDC intensify its cooperative efforts with state health authorities and health care institutions to ensure thorough and timely investigation of possible transmissions of both HIV and HBV. There should be no doubt in the public's mind that we know, as far as is humanly possible, of all incidents of transmissions and how they occurred. If we learn that the risk is greater than the science now shows that it is, our policies related to disclosure of providers' HIV status to patients and restrictions on practice may need to be changed.

More information is needed on the relationship between risk of transmission and specific procedures. Can we determine a degree of risk associated with a certain procedure? If there are procedures that pose a higher degree of risk than others, consideration might then be given to practice restrictions (or disclosure) on HIV-positive practitioners performing those procedures. That evidence, however, is not available at this time.

Universal precautions must be aggressively enforced. While that responsibility rests ultimately with the Occupational Safety and Health Administration, individual practitioners and health care administrators must assume a large measure of the responsibility for insuring adherence to safety precautions. Even the most stringent testing policy cannot now eliminate the risk that exists during the window between infection and a HIV-positive test result. Violations of infection control policies must be met with more than reprimands. Restrictions on clinical privileges or other appropriate actions may need to be taken.

Finally, the College would suggest that health care institutions consider establishing internal committees to review policies on blood borne diseases and advise individual health care professionals on issues related to the conduct of their profession and their medical care. Health care professionals who engage in high risk behavior or who have other risk factors are encouraged to be tested and counseled. As is the case for any other individual, precautions must be taken to ensure confidentiality and provide the best possible medical care.

It is the College's view that we maintain the current policy favoring voluntary as opposed to mandatory testing for health care professionals and strict observance of universal precautions, while vigorously pursuing further research on the issues. It would be a disservice to the public to imply that certain policies—such as mandatory testing, or disclosure of HIV positivity by physicians who perform invasive procedures—would significantly reduce the risk of transmission from provider to patient.

THE ORGANIZATION FOR OBSTETRIC, GYNECOLOGIC, & NEONATAL NURSES,
Washington, DC, July 10, 1991.

Hon. EDWARD KENNEDY,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: NAACOG, the professional specialty association representing more than 26,000 obstetric, gynecologic, and neonatal nurses, and health-care professionals, would like to take this opportunity to provide comments regarding S. 1241. An amendment that may be offered to S. 1241 would require States receiving assistance under any Federal health grant program to enact a law mandating health professionals and others infected with human immunodeficiency virus (HIV) to disclose such information.

NAACOG is opposed to the concepts of mandatory HIV testing and mandatory disclosure regarding HIV status for the following reasons:

Given the limitations of currently available methods of HIV testing, negative test results may be a source of false reassurance to health-care professionals and health-care consumers. Data indicate that an as yet undetermined length of time exists in which testing for the presence of HIV antibodies remains negative although infection is present and communicable.

Limited data are available that identify types of procedures and the corresponding risk of transmission from HIV infected health-care workers to patients as well as from HIV infected patients to health-care professionals. More research is needed regarding the transmission of blood-borne diseases in health-care settings and during the performance of invasive procedures.

NAACOG supports:

Voluntary HIV testing with appropriate counseling, maintenance of confidentiality, and freedom from discrimination based on HIV status.

Acceptance of professional responsibility by the HIV infected health-care workers and personal responsibility by the health-care consumer to voluntarily disclose such status.

The development of policies and guidelines that address transmission of HIV in health-care settings based on epidemiologic data from research on the transmission of blood-borne diseases and invasive procedures and sound infection control practice.

Compliance with universal precautions whenever exposure to blood and body fluids may occur.

Assessment of practice limitations of HIV infected health-care professionals on a case-by-case basis that adheres to standards set by the Americans for Disabilities Act.

The incidence of HIV positive women and newborns is increasing, NAACOG supports legislative efforts that facilitate research intended to evaluate various aspects of HIV including prognostic characteristics, optimal treatment modalities, and prevention techniques. If NAACOG can provide further assistance, please contact Ann Chen, RN, BSN, JD, Health Policy Analyst, Department of Practice and Legislation, (202) 863-2468.

Sincerely,

ANN L. ROPP, RN, MS,
President.

AMERICAN ASSOCIATION OF NURSE ANESTHETISTS,
Park Ridge, IL, July 8, 1991.

Hon. EDWARD M. KENNEDY,
Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: As President of the American Association of Nurse Anesthetists (AANA), I am writing to request that Congress refrain from action on any legislative proposals which would require mandatory disclosure of health care workers' HIV status. As you may know, AANA represents more than 24,000 certified registered nurse anesthetists (CRNAs) nationwide.

CRNAs, like all health care professionals, are extremely concerned that every appropriate precaution be taken to ensure that both patients and health care workers are protected from transmission of the HIV. In fact, AANA is currently in the process of developing guidelines for HIV/AID prevention and management for CRNAs.

Currently, within health care settings, general infection control procedures have been developed and accepted as a means to minimize the risk of patient acquisition of infection from contact with contaminated materials and devices and of transmission of an infectious agent from health care workers to patients. Such procedures also protect workers from the risk of becoming infected.

Presently, the AANA strongly recommends that all CRNAs adhere rigorously to the principles of universal precautions. Furthermore, we believe that all health care facilities should regularly review health care professionals' adherence to barrier techniques, establish protocols to protect patients from HIV infected health care workers, and set forth disciplinary procedures for failure to practice universal precautions.

Mandatory testing or mandatory disclosure of the HIV, however, does nothing to guarantee the prevention of HIV transmission. Rather, mandatory testing is cost prohibitive, creates monitoring difficulties, and may lend a false sense of security which has been shown to lessen adherence to universal precautions.

AANA believes it would be inappropriate for Congress to impose mandatory testing or disclosure at this time. Traditionally, states have addressed public health issues such as reporting. Moreover, The Center for Disease Control (CDC) will be issuing guidelines in the very near future. AANA strongly encourages Congress to refrain from acting on testing or disclosure legislation pending the release of the CDC guidelines.

We also strongly encourage the creation of a national commission to examine the impact of HIV/AIDS on the health care delivery system as a whole. It is imperative that we explore the ramifications of HIV infection on our ability to recruit and retain health care professionals. Additionally, we must understand and address the potentially negative effects of testing on health care providers with respect to malpractice, disability, and other insurance protections.

We welcome the opportunity to discuss these issues in greater detail with you or your staff. If you have any questions, please feel free to contact the AANA Federal Government Affairs Director, Kathy Michels, at (202) 682-1267.

Sincerely,

DAVID R. FLETCHER, CRNA, MA,
President.

[From the New York Times, Jan. 3, 1990]

BRANDING DOCTORS WITH HIV

(By Bruce G. Gellin and David E. Rogers)

AIDS remains a dreadful, and to date, universally fatal infection. People are very afraid of AIDS—and they should be.

Science has vastly increased our knowledge of AIDS and given us exquisitely accurate tests with which to detect the presence of HIV infection. The wide use of the HIV antibody test not only assures us of a safe blood supply, but enables us to treat patients even before symptoms surface. However, because of the stigma so tenaciously associated with this infection, the HIV test has become a double-edged sword. Cruel discrimination rides on the back of the blade.

The possible transmission of HIV from one infected dentist to one of his patients, and

the recent AIDS-related death of a Baltimore surgeon (who apparently was infected by one of his patients) has set in motion a wave of worry that threatens to result in new guidelines from the Centers for Disease Control. Health care providers—particularly doctors and dentists—would be tested for HIV infection. Those testing positive may be forced to limit patient care activities.

At first glance such a proposal seems reasonable. Our physician oath dictates that physicians should do no harm. Long and arduous training, certifying exams, licensing, hospital peer review and the like are all efforts to assure this. But for at least two reasons, screening all physicians for HIV infection will not necessarily accomplish this goal.

First, although the risk of possible transmission of HIV infection from a physician to a patient has always been acknowledged, nearly 10 years down the pike it has never been convincingly documented. The risk of such transmission is not zero but is too low to calculate. Thus a policy to screen health care providers would grossly distort this small risk and may actually emphasize it over and above other risks that health care professionals more commonly visit upon their patients.

Second, it will encourage physicians to shy away from another tenet of ethical medical practice stated clearly as policy since the 19th century: "When an epidemic prevails, a physician must continue his labors without regard to the risk of his own health." Alas, avoidance of the HIV infected is happening already.

Future physicians are selecting medical schools and training programs away from cities with the highest prevalence of HIV infection and there is evidence that some health professionals in those cities may already be pulling out. This proposed branding will hasten the crumbling of health care available to those in greatest need: those already HIV infected and the inner city poor who live in areas with the highest rates of HIV infection in the U.S.

The HIV test, which measures a person's antibody response to the virus, is among the most accurate in clinical medicine. Yet, it may take several months before it turns positive after the infection has taken root. While such test results are in limbo, should a surgeon who is cut during a procedure (once in every 40 cases) sitout until "certified infection-free",

The message to health professionals will be clear: "To continue to care for your patients, and to use your precious skills which required years of training to obtain, don't take care of the HIV infected, or those who your think might be." The negative consequences will far outweigh a doubtful reduction in risk. In a world that already seriously undervalues and trivializes service to others, this will compound the tragedy of AIDS.

Mr. KENNEDY. 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. SIMON. 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 Illinois.

Mr. SIMON. Mr. President, this is a serious problem; no question about it. But to just arbitrarily, on a Thursday afternoon, without a single hearing, move ahead on this, just is not wise. We are dealing with lives of people here. Let us proceed with some caution. Let us proceed with some common sense on this.

For example, as I read this, and the Senator from Massachusetts perhaps has had more of a chance to look at this amendment than I have. Perhaps not. But as I read this—and I would be interested in the reaction of the Senator from Massachusetts, or other health care provider comes along, and there is an accident, and you try to save lives at an accident, that person could be subject to a fine of $10,000 and imprisoned up to not less than 10 years.

Do I read this amendment correctly?

Mr. KENNEDY. It would be a factual situation, as I understand. As I remember from when it was read, it talks about an emergency situation. A factual situation would determine whether that person would go to jail, such as whether there really was an emergency, or there was another doctor who was available. But it certainly makes any doctor think twice about whether there really was an emergency or whether that person could have gotten reasonable care at some hospital, because the Senator is quite correct that if that doctor was HIV positive, he or she would run the risk of the penalty.

The Senator knows that sound public health policy has to include universal precautions in a most comprehensive and complete way. That is basically what the Public Health Service is attempting to do, not some piecemeal approach that would do the test for HIV and claim every patient is safe.

They know they cannot be. They are not going to be necessarily safe. They just look for those individuals who may be HIV positive as I mentioned earlier, and are given this false sense of security. There have to be public health procedures that are comprehensive enough to provide the protections for all the American people, whatever they may be.

I do not know what the position of the Centers for Disease Control would be. Before we act on this we ought to find out. Maybe they will promulgate penalties or maybe they will have some kind of a different approach that we have not thought of.

But I think we as an institution are entitled to hear from them. They have pleaded with us, as the Secretary of HHS says, to wait and examine these guidelines first.

The Senator is quite correct in interpreting the amendment as being a factual situation, whether there was an emergency or whether there was not, and there is no question that this would certainly discourage individuals from being involved in saving an accident victim.

Mr. SIMON. In that kind of a situation, who knows what some court is going to rule on what is a medical emergency.

I would simply point out, Mr. President, no Member of the U.S. Senate has done more to fight for the health care and protecting the health of this Nation than Senator KENNEDY. When Senator KENNEDY gets up and says let us be careful as we proceed here, we ought to do that. We should not vote on the basis of hysteria. We ought to vote with some prudence when we come to something like this.

I do not know what the formal vote will be, whether there is going to be a question of whether this is a proper amendment, whether there is going to be a question of the ruling of the Chair, or how it is going to be phrased. But I would hope the Senate would say let us have hearings, let us know what we are doing when we deal in life and death matters.

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

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

PRIVILEGE OF THE FLOOR

Mr. DURENBERGER. Mr. President, I ask unanimous consent that a Johnson fellow on my staff, Susan Barton Foote, be permitted access to the floor during the pending business.

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

Mr. DURENBERGER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from North Carolina to the bill, H.R. 2622.

Mr. DURENBERGER. Mr. President, I thank you very much.

I rise to oppose the Helms amendment. I am not quite sure what it is doing on this bill. I am going to rise to oppose it in any event.

As the current occupant of the Chair knows, the State of Minnesota for the last several weeks has been exposed to an awful lot of publicity involving physicians who have tested positive for AIDS and, in fact, we have been watching videotapes on our nightly television news of one of those physicians delivering babies and obviously everybody in the State of Minnesota who is now a consistent watcher of television news has some of the concerns expressed on this floor by our colleague from North Carolina. The reality is, I suppose, that people all over the country have been troubled by stories of what in effect is a handful of doctors who appear to have exposed their patients to the AIDS virus. It is a story we have been confronted with on an almost daily basis, and I must say, Mr.

President, in very highly emotional terms.

A physician who knowingly and recklessly exposes his patients to unnecessary risks is both irresponsible and immoral.

But it is irresponsible for us and for the rest of the institutions in our society it is also irresponsible to fan the flames of public fear without having the facts. A videotape made in the State of Minnesota on the nightly news of a physician delivering a baby is hardly a set of facts. I think the reality of the facts in this country is that one dentist in Florida and four or five patients may have been involved in the transfer of AIDS even though people at the National Institutes of Health will argue as to whether or not that is a reality.

In this atmosphere of fear and hysteria we in the Senate must offer our calm and collected judgment. And that means we must examine the facts. Dr. Michael Osterholm, the chief of the acute disease epidemiology section at the Minnesota Department of Health, and an advisor to the Centers for Disease Control, and probably the expert in America on these matters said, "We need to put the issues on the table in order to distinguish fact from emotion. Somewhere in between we'll find a reasonable policy."

What are the facts here? In the Minnesota situation, none of the hundreds of patients have tested positive for HIV. Although tens of thousands of health professionals may be infected, there is exactly, as I said, one known case of a health practitioner who is believed to have infected in this case a dental patient. On the other hand, there are over 40 documented cases of health care workers who have been infected through contact with patients.

Mr. President, is it reasonable to pass a criminal statute mandating that HIV-infected health workers disclose their illness to their patients and then have them disclose it to the world, if you will, because there is no confidentiality barrier, because of a tiny handful of health care workers that may have been in a position to appear to be irresponsible.

Last week, the AMA met in Chicago and considered this issue. At that time, they reaffirmed the policy of encouraging health professionals who perform invasive procedures to voluntarily determine their HIV status and/or act as if they are HIV positive in order to protect their patients from exposure. All health professionals are struggling to develop reasonable approaches to the risks of AIDS transmission for all—both health care workers and patients.

Mr. President, the Centers for Disease Control have developed a comprehensive set of universal precautions that do protect both physicians and their patients from the spread of AIDS. We expect that CDC will issue state-of-the-art guidelines by next week that will provide scientifically and ethically supportable procedures that physicians should follow and hospitals can enforce. We need to support the experts, and respect the facts, not succumb to hysteria.

Mr. President, the medical profession is honorable and ethical. Health professionals are in the business of healing patients, not the business of harming them.

We must find a cure for this terrible disease and we should focus our scarce resources in this direction. Until we do, we must keep our heads, respect the facts, and take all necessary precautions. As columnist Anna Quindlen has wisely noted, "Over the last decade, we have learned about safe sex because of the AID's epidemic. Now, until a cure is found, we will all learn about safe medicine."

Criminal statutes will not produce safe medicine. Careful scientific fact-finding, however, will do so.

We need and deserve safe medicine. We do not need or deserve more hysteria.

So, Mr. President, I ask my colleagues to think about the case that we have experienced in Minnesota and the case that you have read about. But also consider the fact that dealing with these kinds of situations requires more than a resolution from the U.S. Senate.

Mr. President, I yield the floor.

(Mr. LAUTENBERG assumed the chair.)

Mr. WELLSTONE. Mr. President, I would first of all like to thank the Senator from Massachusetts for his powerful eloquence, and I would like to thank the senior Senator from the State of Minnesota. His comments make me very proud to serve in the U.S. Senate with him.

Mr. President, I do not have any prepared remarks and everything I say I suppose is from my heart as well as my head. I am absolutely convinced the more time I spend in the U.S. Senate that leadership is not appealing to the fears and frustrations of people. There is not one Senator, Republican or Democrat, who is not horrified and does not feel the pain of Kimberly Bergalis and her family; it is so awful what they have gone through.

But, Mr. President, as the Senator from Minnesota, my Republican colleague, has said, leadership is calling on people to be their own best selves. And leadership is passing public policy that we know will make a difference and be helpful to people.

The Centers for Disease Control next week will come out with a whole series of rules and regulations, and God knows we need those. And, as the Senator from Minnesota said, we had a study in Minnesota that showed that all sorts of universal precautions need to be taken. Many doctors and surgeons do not wear gloves. They should. There should be a whole set of rules and regulations that will protect all of us.

But, Mr. President, this junior Senator from Minnesota would appeal to all of my colleagues, Democrats and Republicans alike: Do not make a decision without first examining all of the implications.

Mandatory testing—would it work? The Senator from Massachusetts said it could very well be counterproductive and have exactly the opposite consequences of what we want.

So let us not vote on the basis of hysteria. Let us vote when we have full hearings. Let us vote when the Centers for Disease Control has come out with its report.

Should we vote? You bet. But we are not going to be stampeded into a vote on the basis of appealing to fears of others Senators or people in the country. We need to frame sound public policy.

Finally, Mr. President, I have to say that I do not think it is at all helpful when we talk about this kind of tragic, tragic public policy, with consequences for peoples' lives so serious, to talk about "a homosexual lobby." That does not add to the debate. That does not add to the discussion. That does not lead to anything positive. That does not make us a better Senator. That does not make us a better country.

Mr. President, we will vote, but we should vote on the basis of careful deliberation and careful decision. That is the appeal that I make to my colleagues.

Mr. KENNEDY. Mr. President, I just want to add some facts to the current discussion so that we might put the nature of the health threat to the patients in this country in some perspective.

In February of this year, the Centers for Disease Control convened a conference about how to develop the best kind of protections and procedures for the patients of this country. It followed up on the tragic circumstances of Kimberly Bergalis which has been referenced here earlier this afternoon. There were some facts that were examined during the course of that meeting. And these are, I think, important so that we can put this whole debate and discussion into some perspective.

Over the period of the last 11 years there have only been five individuals who have been known to have contracted HIV as a result of contact with a medical professional. Only five in 11 years. All five of them were infected in the office of one dentist. That is it. That is it, five individuals. Same dentist.

So somehow we have this notion as this debate is going on that suddenly we are going to take the kinds of steps that are suggested by the Senator from North Carolina, and somehow the sheet is going to come down and all patients

are going to be safe. More important is the fact that the CDC is going to promulgate recommendations and we are going to have a chance to examine them and base our policies on sound public health practice.

Well, what has been initially the conclusion of those that have been looking at and investigating the set of circumstances surrounding these five patients is the issue was one of contamination; that this dentist did not have the kind of appropriate procedures and technique for cleaning and sterilizing his medical equipment. That is the initial conclusion. And obviously he should have rigorously followed all universal precautions. This reinforces a critical point that the Centers for Disease Control is concerned about and interested in.

I do not know what the recommendations of CDC will be, but these are some of the recommendations from some of the leading medical societies and some of the leading public health personnel: that there must be stricter infection control procedures with health care personnel following universal precautions, wearing gloves and protective eyewear when appropriate; that there has to be safe and thorough procedures for the disposal of used needles and cleaning of equipment; and that there has to be enforcement of policies and procedures in health care institutions to ensure that these, among others, are going to actually be put into being.

Most of the public health organizations and associations believe that these approaches can provide the greatest degree of safety for the patients in this country.

As I mentioned, I do not believe that is going to be an all-inclusive list of recommendations. There clearly will be more. But I think when we are debating this we ought to put this whole matter in some perspective. Five individuals. We all know that is a matter of enormous tragedy for those individuals. If the Helms amendment could do something about those, Lord only knows all of us would be for it.

But the fact is, the tragedy of those individuals has to be, hopefully, eliminated. The circumstance which led to it has to be eliminated in the future, and that is what we ought to be about here this afternoon. Nothing in the Helms amendment is talking about any of these kinds of recommendations, where over 80 organizations made those recommendations to the Centers for Disease Control. Virtually none of those provisions are in the amendment of the Senator from North Carolina.

So that is why I feel so strongly that acceptance of this amendment is poor public health policy. According to those who have the responsibility for the public health of the people of this Nation, should it be accepted, it would be misleading the American people into believing that somehow they are going to have an added degree of protection that would relieve them of the concerns they have, concerns that may be more appropriately alienated with the promulgation of these regulations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, thoughtful Members of this body will disagree on this matter. There is genuine concern about whether health care providers should notify patients if they have AIDS. But in the debate on this subject, a number of Members who have spoken have seemed to imply that this amendment will require testing.

As I read through the amendment, and I have a copy of it right here, it is very clear that this amendment does not require testing. It says, quite simply, "knowing that he is infected, intentionally provides medical or dental treatment to another without notice."

So I think the important measure here to note is that there is no requirement of any kind for testing; that the provisions apply only in the case when the health care provider knows that he or she is infected. And what is required here is simply notification.

Sincere men and women will disagree. Some believe there is no obligation to notify a patient of the AIDS condition of that health care provider. Others, as I do, believe that that disclosure is appropriate. I do not think that the infection of a health care provider with AIDS is something that ought to be kept secret.

But regardless of how you feel on that core issue, I would be disappointed to see the debate on this point go forward with some Members under the misapprehension that this somehow involved mandatory testing. It does not in any way involve mandatory testing. It only places a requirement on a health care provider when that provider knows they are infected.

Mr. President, I yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. BROWN. I will be happy to yield to my distinguished colleague from the State of Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, there is a penalty if you perform an invasive procedure knowing you have HIV. Am I correct?

Mr. BROWN. Failing to provide notice when you know.

Mr. KENNEDY. Does the Senator think when someone suspects they may have it, they will be encouraged to find out whether they do, or be discouraged?

Mr. BROWN. Mr. President, I think the Senator raised an excellent point. I must tell my colleague, my own reaction is if I suspect or people I know suspect they have a disease that could kill them, and possibly finding it out and getting treatment could be helpful or at least save the lives of others that are around them, they would have every reason in the world to get tested and get it pinned down.

Mr. KENNEDY. There is also the argument that if they find out they have HIV, they can go to jail for the last 10 years of their lives. I find it difficult to think that that, for someone who may or may not have HIV, this is going to be much of an incentive for someone to get tested. Certainly mandating testing, as we have seen in some communities around the country, has not encouraged people to go that way.

Voluntary testing has been much more successful in reaching those at risk.

Mr. BROWN. I believe I can relieve the distinguished Senator's concern on that score. As I read the amendment, if indeed people suspect they have the disease, indeed test themselves and find that they do have it, that does not in any way make them liable for any criminal conduct in the past. It is only when they provide medical care after they have come to learn that they have AIDS.

So the situation the distinguished Senator raises should not be of concern to Members. One is not liable; one is not violating this statute if he or she finds out after providing service that he or she has AIDS. It is only when people know that they have AIDS and then provide service without giving notice.

Mr. KENNEDY. All I would respond is if they suspect they have it, and they are practicing doctors, once they know, if they get a test, then they cannot practice anymore. If they suspect they may have it, but they are not quite sure, I cannot believe the fact that they will go to jail for 10 years is going to encourage them to go out and get tested.

It seems to me what they will do is say: I may or may not have it; I will keep operating, or do whatever I do until I feel so lousy that I just cannot do it anymore. That has been more typical of the public's reaction in the past when coercive or mandatory testing was pursued.

Has the Senator got much confidence in the testing for HIV at the present time?

Mr. BROWN. I believe the Senator raises an important point. Clearly, the level of testing, the accuracy of testing, is a valid area for concern. While the health care professionals advise us there is a high degree of reliability with regard to that, it is not perfect. I think that is a valid point for everyone to consider.

What I think is important in this bill is, though, that someone is liable for violating this statute only when they know they have it.

Mr. KENNEDY. I would agree it would be deplorable for an individual who knowingly has the virus to do the

invasive kind of procedures unsafely. We do not differ on that.

The question is whether this particular amendment is going to provide greater security or safety for the patients of the country. It seems to me we ought to at least consider it. My objections to the amendment have been stated now.

It seems to me that to ask the Senate to act on this, without giving any consideration at all to the Centers for Disease Control regulations that will be promulgated on this, through which every Member in the Senate will have the opportunity to examine the results of months hearings, research and examination—we can either accept or reject come next week—to be asked to vote on it at 5:30 on Thursday I feel is not the way to make wise public health policy decisions. I thank the Senator.

Mr. BROWN. I might make just one observation. Certainly, the Centers for Disease Control can have some valuable input on this issue. But one of the things that they cannot do that this body can is pass a statute that requires health care providers to disclose that information under penalty of criminal law. They can come up with valid recommendations that will be helpful, and I have every confidence that they will come up with helpful recommendations. But they are not able to do what this body can do, and that is make it a crime to keep it secret when you have AIDS.

Mr. KENNEDY. I would thank the Senator for providing us with examples of people who have been tested and have found that they are HIV positive, and have voluntarily declared that. Voluntary disclosure is a goal we embrace, but I do not feel it is best achieved under threat of penalty.

Mr. BROWN. I will be happy to have information regarding that whole subject forwarded to the Senator. Certainly that is a valid question, and I will be happy to have information of that kind forwarded to him.

Mr. President, I yield the floor.

Mr. THURMOND. 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.

Mr. KENNEDY. Mr. President, I ask that I be extended the same courtesies extended to the Senator from North Carolina and be notified if there are going to be any motions directed toward this particular amendment. To the extent this legislation can move forward, I have set my bid for the time. I would like to be protected from any motions and just be notified prior to any motion being made.

Mr. DOMENICI. Mr. President, let me respond. The chairman has already said to Senator HELMS that, if any motions were going to be forthcoming, he would protect him. I assume he would be willing to do the same for Senator KENNEDY. We will just proceed with the bill. I understand if we can get a time agreement on an amendment that is totally different, aside, and apart, we can set his aside and Senator HELMS' aside. We will notify the Senator.

Mr. KENNEDY. I appreciate that courtesy.

Mr. DOMENICI. 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. BREAUX. 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. BREAUX. I ask unanimous consent to be able to speak as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 1463 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. (Mr. DODD). The Senator from Arizona.

Mr. DECONCINI. Mr. President, if I can make an inquiry of the Chair: Is the pending business the Helms amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. Mr. President, I have discussed my proposed action with the Senator from North Carolina and he has no objection to setting his amendment aside, and that is also true of the Senator from Massachusetts. Before I ask that we set the amendment aside so we can do some noncontroversial amendments, I wish to indicate to the body that there are some outstanding amendments that we know of.

One is from the distinguished Chair, Mr. DODD.

TIME LIMITATION AGREEMENT

Mr. DECONCINI. Mr. President, Mr. Kohl also has an amendment, and on this amendment we have a time agreement. I ask unanimous consent that when the Senate proceeds to the Kohl amendment that it be in order to temporarily lay aside the pending committee amendment to consider the Kohl amendment with respect to increased IRS funding for enforcement, and when Senator KOHL is recognized for the purpose of offering that amendment, that the amendment be considered for 1 hour equally divided and controlled in the usual form, with no amendments to the amendment in order, and that that occur at or about 7 p.m. tonight.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, let me ask Senator DECONCINI: Under that unanimous-consent agreement you would set aside the pending Helms amendment?

Mr. DECONCINI. That is correct.

Mr. DOMENICI. Temporarily while we take up Kohl?

Mr. DECONCINI. Yes.

Mr. DOMENICI. We are going to do that this evening?

Mr. DECONCINI. Yes. And I cleared that with the Senator from North Carolina. I have some other amendments, also I am going to speak about these amendments before we get to the Kohl amendment.

Mr. DOMENICI. I have no objection.

Mr. DECONCINI. I thank my friend.

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

Mr. DECONCINI. There are amendments by Senator SMITH, Senator BURNS, Senator GORTON and, of course, Senator HELMS has a second amendment.

Mr. President, I ask unanimous consent that we set aside the pending amendment for a period of time while we take up some noncontroversial amendments that the manager and the ranking member are prepared to accept. I have cleared this course of action with Senator HELMS and I understand Senator KENNEDY has no objections if we lay the amendment aside for this purpose.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me inquire of Senator DECONCINI. As I understand it, we will, if the Senator's unanimous-consent agreement is granted by the Senate, proceed to some noncontroversial amendments and then return to the pending business, and at 7 o'clock proceed to the Kohl amendment.

Mr. DECONCINI. The Senator is correct.

Mr. DOMENICI. Let me ask when the Senator listed a number of amendments that we were aware of by name of the sponsor there are some of those amendments that are noncontroversial and will be included in the amendments that the Senator is going to take up next; is that correct?

Mr. DECONCINI. If the Senator will yield, I think the Gorton amendment is the only one to be taken up.

Mr. DOMENICI. I will ask, would it be appropriate for the Senator to discuss for an additional moment the amendments that we are aware of and indicate what the Senator's desire is and what the leadership's desire is regarding this bill? Do I understand correctly that sometime this evening we wish to at least arrive at a list overall of the amendments that would be intended to be offered on this bill; is that correct?

Mr. DECONCINI. Yes, if the Senator will yield. My hope is that we can narrow the identified amendments down so we know which amendments remain. For instance, the amendment from the Senator from Connecticut I believe is going to be worked out and be noncontroversial. It is at that stage?

On Senator KOHL's, of course, we already have a unanimous consent agreement. We will have probably a rollcall vote on that.

On Senator SMITH's amendment, there is going to be no time agreement. That is likely to be a very controversial amendment.

On Senator BURNS' amendment, we are still waiting to hear from the authorizing committee, but I anticipate that it will be a controversial amendment and perhaps require a vote if the Senator wants to offer it.

Senator GORTON'S amendment I am almost sure has been cleared and will be perhaps by the time we finish these other noncontroversial amendments. And then there is a second Helms amendment which, of course, will be controversial.

Those are all the amendments I know of, not counting the one I am about to address that has been agreed to on both sides.

Mr. DOMENICI. I thank the chairman for his remarks. As I understand it, we very much would like Senators who have amendments to this bill to let us know. Obviously there are not very many that are germane to this. We are aware of two that are not; both Helms amendments. If we could find out sometime this evening from Senators if they have further ones, it will be helpful for us in conducting the business of the Senate.

I have no objection to the unanimous-consent agreement.

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

Mr. DECONCINI. I thank my colleague and also emphasize that if Senators do have other amendments, we wish they would come to the floor and offer them. We wish to finish this bill and move on to conference. It is important. It is a must-pass bill, as has been said before.

Mr. President, I am going to send a series of amendments to the desk which have been cleared on both sides, and I will be asking that these amendments be considered en bloc. One amendment is on behalf of the Senator from Maine [Mr. MITCHELL] on reimbursement for protection of the President. One is on behalf of the Senator from Iowa [Mr. HARKIN] on a GSA problem with the skywalks in Des Moines. One amendment is on behalf of the Senator from New York [Mr. MOYNIHAN] on the Brooklyn courthouse in New York. Another is on behalf of the Senator from Maryland, Senator MIKULSKI, on the Bureau of Public Debt. The next is on behalf of Senator ROBB on a postal facility in Virginia. Then there are three amendments sponsored by myself and Senator DOMENICI regarding the Treasury Department. I believe there are a couple of other ones here as well.

There is also an amendment by Senator KASTEN that I understand has been cleared which directs GAO to conduct a study on small pension plan audits. I send those amendments to the desk and ask for their immediate consideration. I also have statements by Senators KASTEN, ROBB, and HARKIN, and I ask that those statements appear in the RECORD at the appropriate place.

UNANIMOUS-CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, at this time, I send to the desk these amendments en bloc and I ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have an amendment in behalf of Senator GORTON and a statement outlining and explaining it. I wonder if I could ask unanimous consent that it be considered to be one of the amendments offered by Senator DECONCINI and be considered as they are en bloc.

The PRESIDING OFFICER. Without objection it is so ordered.

The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Airzona [Mr. DEConcini] proposes amendments en bloc numbered 736, 737, 738, 739, 740, 741, 742, 743, 744, and 745.

The amendments considered en bloc are as follows:

AMENDMENT NO. 736

(Purpose: Authorizes the Secret Service to use funds appropriated in fiscal year 1992 to reimburse entities in the State of Maine for Presidential protection activities undertaken in fiscal year 1991) On page 17, line 17, before the period, insert the following: ": *Provided further*, That fiscal year 1992 funds shall be reimbursements claimed in fiscal year 1991."

AMENDMENT NO. 737

On page 55, between lines 6 and 7, add the following new section:

Sec. 113. Notwithstanding any other provision of law, the General Services Administration shall enter into an agreement with the City of Des Moines, Iowa to pay expenses for one half of the operation, maintenance and repair of each skywalk bridge spanning city streets or alleys and connecting to the Federal Building at 210 Walnut Street in Des Moines, Iowa after the construction of each such skywalk and each year thereafter.

Mr. HARKIN. Mr. President, this amendment is straightforward. It provides that the General Services Administration should act in the same way as other owners of downtown buildings in regard to the Des Moines skywalk system. Des Moines has an extensive system of skywalks that allow pedestrians to walk from one building to another throughout most of the downtown area without having to face inclement weather. The skywalks are located at the second floor level.

The GSA is willing to connect the Federal building to the system. However, there is a problem. All of the building owners operate the skywalk system under an agreement providing for each owner to cover half of the cost of the skywalk which is attached to their building. If any owner gets a better deal, they are all entitled to the same benefit. That would cause considerable havoc.

The GSA says that they cannot, under law, pay for the portion of the cleaning, heating, and other operation costs of the skywalk over the city-owned streets. This amendment provides that they should cover all of those costs. I understand that GSA is not opposed to the amendment.

I thank Senator DECONCINI and Senator DOMENICI for working with me on this issue and for accepting the amendment.

AMENDMENT NO. 738

On page 36, between lines 12 and 13, add the following:

New York:

Brooklyn, U.S, Courthouse, $10,000,000.

AMENDMENT NO. 739

On page 78 of the bill, strike lines 5 through 11 and insert in lieu thereof, the following:

"(c)(1) Any individual referred to in subsection (b) who, within five years after the date of enactment of this Act, submits an application for employment in a position of employment in a department or agency of the Federal Government for which the individual is qualified shall be given preference over similarly qualified applicants for the position."

AMENDMENT NO. 740

(Purpose: To require a report from the United States Postal Service and the General Services Administration.

Insert at the appropriate place in the bill:

"The U.S. Postal Service and the General Services Administration shall submit a report, by March 1, 1992, to the Committees on Appropriations of the U.S. House of Representatives and the United States Senate on the disposition of the U.S. Postal facility located in Harrisonburg, Virginia. Such report shall provide information on the cost of acquiring the facility, if the Postal Service decides to sell it, and the projected costs of any necessary renovation."

Mr. ROBB. Mr. President, this amendment concerns the Federal

building in Harrisonburg, VA, which houses a Postal Service facility and the U.S. district court. I understand that the Postal Service would like to build a new facility in Harrisonburg and may already have let a contract for design and construction. On March 20, 1991, the Postal Service wrote to the General Services Administration stating that no decision on the sale or retention of the current Federal building would be made until October 1992.

This Federal building is an historic landmark and, according to the Administrative Office of the U.S. Courts, the U.S. district court would like to remain there. The court system would like for GSA to purchase and renovate the building.

Mr. President, my amendment would require a report from the Postal Service and GSA on disposition of the building. The report must also include information on the cost of acquiring the facility, if the Postal Service decides to sell it, and the projected costs of any necessary renovation. The report must be submitted by March 1, 1992.

Mr. President, I thank the managers of the bill for their thoughtful consideration of my amendment.

AMENDMENT NO. 741

On page 7, line 9, strike the semicolon.
On page 7, line 9, insert "for" after "and".
On page 14, line 5, strike "the".
On page 14, line 6, strike "the".
On page 15, line 10, insert a comma after "modernization".
On page 15, line 22, insert "the" after "upon".
On page 17, line 2, delete the comma.
On page 17, line 9, strike "to" and insert in lieu thereof "shall".
On page 24, line 25, strike the word "materials" after the word "to" and insert in lieu thereof "minerals".
On page 26, line 19, insert a comma after "rulings".
On page 30, strike "Commerce, State and Justice Departments" and insert in lieu thereof "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies".
On page 30, line 14, insert ", to remain available until expended" after "activities".
On page 31, line 16, insert a comma after "amounts".
On page 38, line 6, after "$569,251,000", strike "1".
On page 43, line 1, insert a comma after "Georgia".
On page 43, line 2, insert a comma after "Georgia" and after "Kansas".
On page 43, line 3, insert a comma after "Maine".
On page 43, line 6, insert a comma after "Nevada".
On page 43, line 8, insert a comma after "Carolina".
On page 43, line 9, insert a comma after "Tennessee".
On page 52, line 24, beginning with the word "The", strike all down through and including line 18 on page 53.
On page 58, line 16, strike "moneys" and insert in lieu thereof "funds".
On page 59, line 9, strike "$3,468,000" and insert in lieu thereof "$4,018,000".
On page 59, line 10, line type "$6,375,000" and insert immediately thereafter "$5,825,000" in italics.
On page 60, line 21, strike "Federal".
On page 60, line 23, strike "10,000" and insert in lieu thereof "1000".
On page 73, line 2, insert a comma after "Act".
On page 73, line 3, strike "the" after "for".
On page 76, line 12, strike the word "filing" and insert in lieu thereof "filling".
On page 76, line 23, strike "Act, or by any Act appropriating funds" and insert in lieu thereof "or any other Act".
On page 76, line 24, strike "that is".
On page 76, line 25, strike "may,".
On page 77, line 2, insert "may" after "1991,".
On page 77, line 8, strike "Parkerburg" and insert in lieu thereof, "Parkersburg".
On page 77, line 16, strike the accents on the word "resume".
On page 79, line 1, strike "fees" and insert in lieu thereof "fee".
On page 82, line 8, insert "not" after "may".
On page 82, line 9, strike "not".
On page 87, line 19, strike the first "Act".
On page 95, line 18, strike "Act".
On page 95, line 22, strike "in" and insert in lieu thereof "by".
On page 95, line 23, insert "to" after "and".

AMENDMENT NO. 742

On page 32, at the beginning of line 10, insert the following: "For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), $288,000,000 to be deposited into said Fund."
On page 32, line 10, after the word "into", strike "the" and insert in lieu thereof, "said".
On page 32, line 10, beginning with the word "the" strike down to and including the comma on line 13.
On page 33, line 10, strike "$4,027,836,276" and insert in lieu thereof, "$4,315,836,276".
On page 44, line 11, strike "$4,027,836,276" and insert in lieu thereof, "$4,315,036,276".
On page 20, line 7, after the word "Provided" and before the comma, insert "further".

AMENDMENT NO. 743

On page 6, line 16, after the semicolon, insert the following: "for payment of per diem and/or subsistance allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty;".
On page 16, line 14, after the semicolon, insert the following: "for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty;".
On page 18, line 19, insert the following after the word "countries" and before the semicolon: "without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year".
On page 30, line 4, after the word "Service" insert the following: "for the hiring, equipping and training of an additional 32 full-time equivalent special agents and 22 full-time equivalent support and administrative positions".

Mr. CHAFEE. If I might have the attention of the distinguished manager of the bill, I would like to clarify one point in the bill with regard to the establishment of an Internal Revenue Service toll-free call answering site in Rhode Island. The House approved bill and the bill as reported to the Senate by the Appropriations Committee recommend an appropriation of $1,661,298,000 for the Department of the Treasury account entitled "Processing Tax Returns and Assistance." It is my understanding that the House Report (H. Rept. 102-109) expresses that body's intention that from the total appropriation for that account, $3,800,000 shall be made available for a toll-free call answering site in Rhode Island.

Mr. DECONCINI. That is correct.

Mr. CHAFEE. I would like to clarify with the distinguished manager that while a call answering site is not mentioned in the Senate report language, it is not the intention of the Senate to prohibit the use of funds in the aforementioned account for such a purpose.

Mr. DECONCINI. That is correct.

AMENDMENT NO. 744

(Purpose: To require the General Accounting Office [GAO] to conduct a study of the Internal Revenue Service's small defined benefit plan actuarial audit program and report to Congress within 45 days on the results thereof)

The General Accounting Office shall conduct a study of the manner in which the Internal Revenue Service's small defined benefit plan actuarial audit program is being conducted. Further, the General Accounting Office shall report to the Congress within 45 days on the results thereof.

IRS SMALL PENSION PLAN AUDIT PROGRAM

Mr. KASTEN. Mr. President, I have received numerous complaints, as have many other Members of Congress, concerning the small plan actuarial audit program currently being conducted by the Internal Revenue Service.

In late 1989, the Internal Revenue Service [IRS] initiated an audit program directed solely against small business sponsors of defined benefit plans. The basic tenents of this program were described in an internal memorandum to IRS field agents dated November 29, 1989, which provided that IRS agents were to challenge an interest rate assumptions below 8 percent and retirement age assumptions below age 65.

This approach retroactively reversed prior IRS guidance provided in the actuarial audit guidelines, which were published in 1984 and discussed at numerous pension practitioner meetings since that time.

The IRS has justified the targeting of its efforts against small companies by noting that small plans have higher per participant contributions than larger plans. Small plans have higher per participant contributions than large plans because small companies have a higher percentage of management and professional employees.

Furthermore, since small companies are often financially unable to estab-

lish a pension plan in their early years, they must make higher contributions once the plan is established to properly fund the retirement benefits.

It appears to me that the small plan audit program is an arbitrary program which unfairly punishes small employers who have established defined benefit plans. Not only is it affecting employers whose deductions are being disallowed, but it is sending a message to all small businesses to be wary of establishing a pension plan. This is clearly contrary to elemental fairness and to the goal of providing broader coverage under the private pension system.

On June 18, 1991, the IRS issued announcement 91-92, which stated that the Service would not apply penalties and excise taxes where taxpayers agree to the disallowances imposed under the small plan actuarial audit program. However, the IRS has in no way addressed the fundamental unfairness inherent in this program resulting from the arbitrary rejection of interest rate assumptions below 8 percent and retirement age assumptions below age 65.

In my view, the General Accounting Office [GAO] should conduct a study of the IRS Small Plan Actuarial Audit Program to provide the Congress with an objective analysis of this program, and to determine whether congressional action is necessary to constrain this program.

Consequently, I herewith respectfully submit an amendment to the Treasury appropriation bill which requires the GAO to undertake such a study and report its findings to the Congress within 45 days.

Mr. DECONCINI. Mr. President, I have received numerous complaints, as have many other Members of Congress, concerning the small plan actuarial audit program currently being conducted by the Internal Revenue Service. In late 1989, the Internal Revenue Service [IRS] initiated an audit program directed solely against the small business sponsors of defined benefit plans following a demonstration program it had conducted earlier in my home State of Arizona. The basic tenets of the program were described in an internal memorandum to IRS field agents dated November 29, 1989, which provided that IRS agents were to challenge any interest rate assumptions below 8 percent and retirement age assumptions below age 65. This approach retroactively reversed prior IRS guidance provided in the Actuarial Audit Guidelines, which were published in 1984 and discussed at numerous pension meetings since that time.

The IRS has justified the targeting of its efforts against small companies by noting that small plans have higher per participant contributions than larger plans. However, it seems only reasonable that small plans have higher per participant contributions than large plans because small companies have a higher percentage of management and professional employees. Further, since small companies are often financially unable to establish a pension plan in their early years, they must make higher contributions once the plan is established to properly fund the retirement benefits.

Mr. President, I have discussed this issue with IRS several times, asked questions in hearings, and I still question whether the small plan audit program is fair to small employers who have established defined benefit plans. The program is adversely affecting many employers whose deductions are being disallowed. In defense of IRS, I would have to agree that there has been considerable taxpayer abuse in this area. However, there is an issue here which clearly must be resolved. Is the IRS sending a message to all small businesses that they are going to be unfairly singled out? Such a message would be clearly contrary to elemental fairness and to the goal of providing broader coverage under the private pension system.

On June 18, 1991, the IRS issued announcement 91-92, which stated that the Service would not apply penalties and excise taxes where taxpayers agree to the disallowances imposed under the small plan actuarial audit program. However, it is alleged that the IRS has not satisfactorily addressed the questions of the fundamental fairness posed by an inflexible interest rate assumption of 8 percent and a retirement age assumption of age 65.

Mr. President, I believe these questions need to be given more attention. In my view, the General Accounting Office [GAO] should conduct a study of the IRS small plan actuarial audit program to provide the Congress with an objective analysis of this program, and to determine whether congressional action is necessary to constrain this program. Consequently, I wholeheartedly support the Kasten amendment which requires the GAO to undertake such a study and report its finding to the Congress.

It is the intent of this amendment that GAO shall conduct a thorough analysis of the impacts of the small business audit program upon smaller businesses and the reasonableness of the interest rate and retirement age assumptions. This amendment shall also provide responses to the following questions:

First, was any study made prior to the issuance of the November 29, 1989, memorandum to Internal Revenue Service [IRS] field agents prescribing the minimum 8 percent interest rate and minimum age 65 retirement age assumptions as to the percentage of small plans that would be affected by such standards?

Second, was any study made prior to the issuance of the November 29, 1989, memorandum as the percentage of large plans—those plans having more than 100 employees—that utilized interest rate assumptions below 8 percent and/or retirement age assumptions below age 65?

Third, did any consultation take place with the actuaries responsible for establishing the interest and retirement age assumptions in the Federal military and civilian retirement programs as to the assumptions used in such plans? If no consultation took place, was any consideration given to the assumption utilized?

Fourth, did any consultation take place with the President's Council of Economic Advisers as to their projections of future interest rates on long-term Treasury bonds? If no such consultation took place, was any consideration given to their projections?

Fifth, did any consultation take place in advance of the issuance of the November 29, 1989, memorandum as to the lack of consistency between the retirement age standard enunciated in that memorandum and the Pension Benefit Guaranty Corporation regulation on expected retirement age, signed by the Secretary of the Treasury? If no consultation took place, was any consideration given to this regulation? This regulation assumes that those eligible for a benefit will elect to receive it within a short period after eligibility, and that this tendency is strongest for individuals receiving a high level of benefits.

Sixth, the legislative history of ERISA includes the following discussion in the House Committee on Ways and Means concerning the selection of actuarial assumptions.

> Your committee recognizes that frequently there is a range of actuarial assumptions which may be appropriate for determining the costs of defined benefit pension plan, and the choice of the appropriate assumptions is very much a matter of judgment.

Is the approach adopted in the small plan actuarial audit program, and specifically in the November 29, 1989, memorandum consistent with the above-stated legislative intent?

Seventh, Lesson 5—Actuarial Update [from CPE Technical Topics for 1990, an EP:EO field agent training manual] states that:

> For purposes of the actuarial examination program, a (somewhat arbitrary) definition of reasonablness has been adopted: retirement ages of 65 or more are reasonable.

Is there an inconsistency between the above statement from this training manual and the Service's assertions that decisions under the small-plan actuarial audit program are being made on the basis of the "facts and circumstances" of each particular case?

Eighth, were any studies conducted by the IRS as to when the individuals eligible for a retirement benefit under a private pension plan before age 65 take such a benefit? If not, what was

the basis for asserting that age 65 was the normal retirement age with respect to individuals eligible for a benefit at an earlier age? Does the age 65 retirement standard utilized under the small actuarial audit program unfairly impact upon employees of smaller businesses?

Ninth, the House report on ERISA states that:

Unless the assumptions used are substantially unreasonable, it is contemplated that generally the Service will not require a change of assumptions to be made effective for years prior to the year in which the audit is made. (H.R. Rep. No. 93-779, 93d Congress, 2d Sess., 94) (February 5, 1974).

Under the small plan actuarial audit program have any interest rate or retirement age assumptions been adjusted by the Service only a prospective basis? If not, why not?

Tenth, has any recognition been given to the need to establish actuarial assumptions on a more conservative basis in small plans as against large plans because of the reduced margin for error referred to in the letter from the American Academy of Actuaries to Thomas Terry, Benefits Tax Counsel in the Office of Tax Policy, dated May 11, 1991.

Eleventh, in a letter to Congresswoman NANCY JOHNSON dated April 3, 1991, Assistant Commissioner, Employee Plans and Exempt Organizations John E. Burke stated that:

Ten test cases have been selected by a Tax Court judge who has taken responsibility for deciding these issues and we expect the cases to come to trial later this year. We are confident that the positions we have taken are sound and we are eager to receive the court's findings.

Did the IRS attorneys seek delay in the trial of these cases until the summer of 1992 at a pretrial hearing before Judge Charles E. Clapp, the U.S. Tax Court Judge having responsibility for the actuarial audit cases?

Twelfth, on June 18, 1991, the IRS issued announcement 91-92 describing the Actuarial Resolutions Program, which provides that taxpayers who agree to the disallowances proposed by the Service may settle their tax liabilities without the imposition of certain penalty and excise taxes. This program commenced on July 1, 1991, and will close on March 31, 1992.

What was the basis for the decision to close this program on March 31, 1992, prior to the time that any Tax Court case decisions will be rendered? Does this termination date have the effect of pressuring taxpayers into accepting IRS disallowances based on the minimum 8 percent and age 65 standards?

Thirteenth, would it have been reasonable for enrolled actuaries to conclude from the publication of the Actuarial Audit Guidelines by the Internal Revenue Service in 1984, and the discussions thereof at numerous practitioner meetings by IRS representatives, that the reasonableness of interest-rate assumptions for plans with the appropriate experience to be subject to these guidelines would be determined by the standards described in the guidelines?

Fourteenth, Mr. Ira Cohen, then the Director of the IRS Employee Plans Technical and Actuarial Division, reportedly made the following comments at the 1986 enrolled actuaries meeting concerning the interest rate deemed reasonable by the IRS In plans lacking experience when the long-term Treasury bonds were yielding at least 12 percent:

One approach would be to go to 12 percent. On the other hand, I indicated before that we do not want to be just totally superimposing judgment. We want to leave a range and on the guidelines we came up with a 4 percent range and I've explained how we came about that range. Therefore, if we allowed when there is experience a 4 percent variation, we subtracted the 4 percent from the 12 percent which is what the expectation [is] and came up with 8. And that is basically the approach we used dealing with the interest rate.

Would it have been reasonable for enrolled actuaries to conclude that interest assumptions for plans lacking experience—and thus not subject to the guidelines—which fell within the range of 4 percent of the long-term Treasury rate prevailing at the time the assumption was established would be deemed acceptable in view of the explicit comments of Mr. COHEN cited above?

Fifteenth, in how many of the cases under the small-plan actuarial audit program where disallowances have been based on a rejection of the interest rate assumption would that assumption have been acceptable if the interest rate standard described in the guidelines were applied to plans having the requisite experience and the interest rate standard described by Mr. COHEN—interest rate assumption reasonable if within 4 percent of prevailing long-term Treasury rate—were applied to plans lacking the requisite experience?

Sixteenth, Revenue Ruling 76-464 stated that a range of 5 percent to 6 percent was acceptable for preretirement interest rate assumptions for the funding of target benefit plans. Proposed Regulation 1.40(a)(4)-8(b)(4), issued on May 16, 1990, adjusted this range to 7½ percent to 8 percent effective on a prospective basis, beginning in 1991.

Why was the acceptable interest rate range for target benefit plans adjusted on a prospective basis, and the acceptable interest rate range for small defined benefit plans adjusted on a retroactive basis?

Mr. President, I again applaud the efforts of Senator KASTEN, ranking member of the Committee on Small Business, on the amendment. I would also like to thank the minority staff of the Small Business Committee, particularly John Carson, for all of their hard work. Members of Senator KASTEN'S staff have been working closely with Patty Lynch, my subcommittee clerk, and Tim Gearan of my personal staff, on this issue for several weeks. I would also like to acknowledge the efforts of dozens upon dozens of my constituents that were instrumental in educating me by letter and in person on the finer details of this complex issue. Lastly, I would also like to thank the staff of the Society of Pension Actuaries for their help on this amendment.

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

AMENDMENT NO. 745

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the United States Postal Service during fiscal year 1992 by this or any other act, nor any postal revenues available during such fiscal year, may be used by the United States Postal Service to execute or operate any contract for a major expansion of its current dedicated year-round national air networks for the purpose of transporting priority mail, except in an emergency or temporary service interruption, until the Postal Service provides, 180 days in advance of the proposed date of such expansion, a complete report to the Congress of its plan, including its impact on priority mail service, first class mail, and private industry. Additionally, the Postal Service shall report to Congress on a quarterly basis of any incremental expansion of the dedicated air network for priority mail."

Mr. GORTON. Mr. President, my amendment will remind the Postal Service that it is not a private enterprise and cannot act unilaterally without thought as to the consequences of its actions. My amendment will prevent the Postal Service from making important decisions which impact the taxpayers of this country in a vacuum, affecting anyone who uses its overnight and priority mail services, not to mention its private competitors.

This amendment will ensure that the Postal Service does not move forward to implement expanded air operations with respect to its priority mail. This amendment will require the Postal Service to report its plans and their potential impact on postal customers and private industry to Congress before implementing those plans.

The amendment will not, in and of itself, prohibit the Postal Service from expanding its air operations for priority mail. Nor will my amendment in any way affect the Postal Service's plan to purchase a new hub operation center for its overnight mail service. Without my amendment, however, Congress is likely to have no information and no ability to react to the Postal Service's plans until after it has become a fait accompli, even though those plans may profoundly affect our constituents and privately operated express services and the commercial airlines.

Mr. President, I believe that it is important for this body to understand two facts: the scope of the original

plan; and why I believe Congress should still be concerned with them.

The Postal Service's original plan was to implement a $3 billion expansion of its air operations. According to the Postal Service, this expansion was necessary to allow the Service to improve priority mail's delivery range and quality of the service. The Postal Service has admitted that expanding its air operations would increase the cost per pound of delivering priority mail by 300 percent. The Postal Service asserted, however, that through this plan it could increase its market share significantly enough to earn an additional $1 billion over cost.

The Postal Service strategy raised two questions in my mind. First, because private express mail services cannot compete with priority mail head to head by law, should the Postal Service be allowed to increase its market share at the expense of the private sector? Second, has the Postal Service adequately addressed the full ramifications of its proposal?

The Postal Service insisted that it would not be competing with, nor stealing market share from, private enterprise. The increased market share will come, it claims, from small businesses and individuals who the Service believes aren't adequately served by private enterprise or the Service.

To the contrary, the Postal Service plan may well only shift customers from express mail where there is competition, to the cheaper and now more reliable priority mail, where there is not. Moreover, the Postal Service, without increased revenue to offset its higher costs, is likely to be forced to subsidize the space already paid for on its dedicated air operations by carrying first-class mail.

This very real possibility leads me to my second point, the public impacts of this proposal. First, even if every Postal Service objective is achieved, the removal of priority mail from the commercial airlines will cost those airlines $250 million per year. Of that there is no doubt.

Second, if the Postal Service's assumptions about market conditions turn out to be incorrect, its performance objectives will not be attained. The Postal Service, of course, will move first class mail to the unused space in its expanded air operations.

If this is so, the airlines will lose $500 million a year in revenue. Do you want a Government agency making a public-policy decision which may have the effect of removing $750 million a year from an industry, half of whose members are already in bankruptcy.

Mr. President, after a series of meetings with the Postal Service, culminating in a meeting with Postmaster General Frank, the Service has backed away from the proposal to immediately move its priority mail service on a dedicated air system. Now the Postal Service tells me that it will only move forward to buy a single hub operation. This hub operation will be initially dedicated to the processing of the Service's overnight mail. As I said before, my amendment is not in anyway intended to prohibit the Service from accomplishing this goal.

Nevertheless, my colleagues should understand that the Postal Service still has the authority, without my amendment, to move either unilaterally or incrementally toward expanding its air operations for priority mail. There will, no doubt, be consequences beyond which the Postal Service anticipates. My amendment ensures that Congress, and all Americans, will be fully informed before the Service moves forward with its plan.

I have worked with all the authorizing and appropriating committee staffs to assure that everyone understands the intent of my amendment.

I have received a great deal of encouragement and assistance from my colleagues on the appropriating and authorizing committees. I am happy that I could amend the language so that it was acceptable to all.

I urge my colleagues to adopt this language.

Mr. DECONCINI. Mr. President, Mr. Anthony Frank, the Postmaster General of the United States testified yesterday before the Federal Services, Post Office and Civil Service Subcommittee of the Senate Government Affairs Committee. At the hearing, Postmaster General Frank made it clear that the U.S. Postal Service has every intention to move forward with a plan for a dedicated daytime airfleet for priority mail.

Sources outside the USPS have estimated the costs of transporting priority mail on a dedicated fleet would rise from the current price paid to commercial airlines of $0.35 per pound to anywhere from $1.05 to $1.57 per pound. My understanding is that the USPS does not dispute these figures. Although we have not seen the USPS business plan to date, we have been led to believe they plan to offset these higher costs by capturing a larger share of the market. Based on the USPS's own past experience with their overnight express mail service these estimates could be overly optimistic. Profits related to the express mail product have declined as has the USPS' share of the overnight mail market share.

Mr. President, I am also concerned that the USPS will be unable to fully utilize the capacity of its proposed dedicated fleet exclusively with priority mail, and will be forced to either move first class and parcel post away from commercial airlines or pass the additional costs of the dedicated airfleet on to the American postal customer.

Today, commercial airlines transport over 750 million dollars' worth of mail for the USPS, making them one of the airlines largest customers. By all reports, including the USPS, the domestic airline industry is performing a satisfactory job at transporting the mail at what appears to be a bargain price. In addition, this industry appears eager to work with the USPS to improve mail delivery capabilities. I am skeptical of a plan that would take revenue away from our commercial airlines at a time when the industry has lost over $4 billion in 1990 and over $2 billion in the first quarter of 1991.

I would urge the USPS to document and disclose the specific problems it has experienced with the service provided by commercial airlines and work with the airlines to perfect their systems before embarking on a plan as fraught with risk and potential expense as a dedicated airfleet.

I applaud Senator GORTON for his special efforts concerning this amendment. I also would like to recognize the active participation of each and every Senator on the Appropriations Subcommittee on Treasury, Postal Service and General Government, and especially the contributions of the ranking member, Senator DOMENICI. I would also note that Senator MIKULSKI is a cosponsor of this amendment.

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

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments en bloc.

The amendments (Nos. 736 through 745, en bloc) were agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, we have no other amendments at this time. Again, as my colleague from New Mexico stated, we urge Senators to come to the floor and offer their amendments. There is no better time than 6:20 on a Thursday evening to come here before the Sun is down and get your amendment considered and be out of here early so you can go home for dinner, or whatever. So we urge Members to come to the floor.

And while the Senator from New Mexico and I wait here, I suggest the absence of a quorum.

Mr. DOMENICI. If the Senator will withhold that request, it really is the right time, because in Arizona it is only 3:20.

Mr. DECONCINI. That is right.

Mr. DOMENICI. So there is a lot of time if they will just come down and let us get this bill finished. We might even get it done before the Sun sets.

Mr. DECONCINI. It is very hot in Arizona, and it will be cool in here.

Mr. DOMENICI. We will move a little east and go to New Mexico, and it is only 2 hours different. And we will have some beautiful weather.

Before we proceed to call the quorum, let me again say to Senators on my side that I thank those who have called in and sent notes that they have no amendments or, if they had amendments, indicating that they had changed their plans because matters had been cleared up otherwise.

If there are others besides those that Senator DECONCINI has listed, I would appreciate it. I am trying to get this bill in a position so that, if we do not finish tonight, we would know what needs to be done next week aside from the Helms amendment. I think that would be something worthwhile for the Senate. If Senators can help in that regard, it would be appreciated.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill ckerk 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.

Mr. MITCHELL. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order is S. 1241.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate continued with the consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. HELMS. I thank the Chair.

Mr. President, we are going into what I believe is the third day of trying to get a vote. We have flipflopped, one bill to the other. There are meetings on how can we stop old HELMS. I just say in the final analysis, you are not going to do it because there is no hole to run to. I tried to offer it on the crime bill and the usual flak occurred, and I do not know the problem that the Senators are having.

Ninety-five percent of the American people agree with the pending amendment on which the yeas and nays have been ordered. I know of four or five Senators who spoke. They are the usual four or five, and I know why they speak and I know whom they represent from their past activities and relationships with various pressure groups.

Let me say again that I want to move the business of the Senate along. I have not held up the Senate. Those who do not want to vote on my amendment have held up this Senate. I heard the lecture by my distinguished friend from Maine and I do not have any wish to encourage any division. If he feels that I have violated comity, I apologize for that. But we can end all this, Mr. President, if we just go to a vote on one of these pieces of legislation. One of them.

I have qualified amendments on the crime bill. I have two amendments to the bill which was just taken down and I simply do not understand the problem. I just wanted to make a matter of record that however the leadership wants to do it, I will be satisfied with a vote on the two amendments and that is all there is to it. If I offended anybody about it, I am sorry about it. The leader has his responsibility, but I, as a Senator, have my responsibility. I am doing the best I can to perform that responsibility. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, it is my understanding that the Senator has been offered the opportunity for a vote on or in relation to his amendment next Thursday following 1 hour of debate at a certain time and that the Senator has refused that offer. So the RECORD will, of course, note the comments just made by the Senator from North Carolina. The RECORD should also note that the Senator from North Carolina was offered an opportunity to have a specific time certain for debate and vote on or in relation to his amendment. My understanding at least—I was not a party to the discussion—is that he has not accepted that offer.

Mr. HELMS. I had a telephone call—if the Senator will yield.

Mr. MITCHELL. Certainly.

Mr. HELMS. I had a telephone call regarding the situation. I have not had an offer made by a Senator. Certainly, the majority leader has not made that offer.

Mr. MITCHELL. My understanding is that through members of the Republican staff, this offer was communicated to the Senator from North Carolina earlier today.

Mr. HELMS. Well, about 10 minutes ago, I got a call in that regard and I came over here as quickly as I could.

Mr. MITCHELL. We do not have to quibble about whether it was 10 minutes ago.

Mr. HELMS. We are not quibbling. We are just getting the facts straight, Mr. President.

Mr. MITCHELL. Does the Senator accept the offer?

Mr. HELMS. Propound the offer and I will consider it.

Mr. MITCHELL. That is the offer. Have a vote on or in relation to your amendment following a time certain next Thursday, following 1 hour of debate on the amendment.

Mr. HELMS. I will make a counteroffer. Following 1 hour of debate this very evening, let us have a vote on or in relation to it. What is the difference? Why the delay of 6 days?

Mr. MITCHELL. The answer obviously——

Mr. HELMS. That is the whole point of what I am talking about, I say respectfully.

Mr. MITCHELL. I do not desire to attempt to negotiate with the Senator from North Carolina under any circumstances, certainly not in this forum. I think the RECORD should note that an offer has been made to have a vote at a time certain on or in relation to the Senator's amendment and he has refused that offer.

Mr. President I understand we are now on the crime bill and we will proceed on that bill. If the Senator chooses to proceed on this bill then, of course, that is his option, as it is the option and the right of every Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I wonder if I might ask the majority leader, in the presence of the chairman of the subcommittee, Senator DECONCINI, who chairs the subcommittee that has the bill that was set aside under the regular order, I wonder if it would be appropriate if Senator DECONCINI and I were to ask our fellow Senators to get amendments to the Treasury-Postal appropriations bill to us maybe within an hour or so while we are still in tonight so that we can make a list of amendments and at least get a unanimous-consent agreement that there will be no other amendments if we ever return to the bill, or maybe I should say when we do.

Mr. MITCHELL. Mr. President, if I may respond, I believe that would be a very positive suggestion, and I encourage the managers, the distinguished Senators from Arizona and New Mexico, to proceed in that fashion and to attempt to get a list, not if, it is when, because we will return to the measure and we will complete action on it, so that we will have a specified number of amendments.

Mr. DECONCINI. Will the leader yield?

Mr. MITCHELL. Yes, certainly.

Mr. DECONCINI. May I ask the majority leader, and the Republican leader as well, if they would hotline a request as to the amendments which are still to be considered: There is the Kohl amendment with 1 hour of debate equally divided which has already been

agreed to; the Dodd amendment which has no time limit but I think will be agreed to; the Smith amendment which will have no time limit and will probably be debated and require a vote; and the Burns amendment on which we do not have a time agreement. Those are all the amendments with the exception of the Helms amendment, the prior pending amendment and the second Helms amendment, which we will not deal with. If we could lock those amendments in with the appropriate procedure from our Cloakrooms, asking if there are any additional amendments, then I will ask unanimous consent that those amendments be all the amendments in order to be considered.

Mr. MITCHELL. Mr. President, I think that is an excellent idea. There may be other Senators who want to offer other amendments. They will have the opportunity now to convey that to the distinguished managers and hopefully in the relatively near future we could seek and obtain an agreement with the respect to the ultimate disposition of that measure.

Mr. DOMENICI. I wanted to note that the Republican leader was listening when Senator DECONCINI made the suggestion and he indicated in the affirmative, that we will see to it that Senators on our side are informed, perhaps, we will have an answer within the next 45 minutes, and I will convey it to Senator DECONCINI. I thank the Chair.

Mr. DECONCINI. I thank the leader.

Mr. MITCHELL. 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 (Mr. KERREY). Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, earlier in the day I announced that I would be offering three amendments in the course of this crime bill, as it has been called, after the noon period in which we had been requested not to offer any specific measures.

These measures, Mr. President, have been with the managers of the legislation for 2 weeks. They are modest but important matters. One is a large idea having to do with the banning of the manufacture and sale of certain rounds of ammunition, .25 and .32 caliber and 9 millimeter ammunition, to build on the record which the Senate made 5 years ago when we banned the manufacture and sale of armor-piercing rounds, known as cop killer bullets, which had been developed for other purposes but which were now, with the introduction of body armor, in use against police officers.

This ammunition was the one threat to police officers wearing body armor.

This proposal was initially opposed by the National Rifle Association, and other groups, but then with further inquiry the NRA learned, for example, that a very large portion of their membership are police officers who very much wanted this legislation.

The distinguished former President pro tempore, the Senator from South Carolina, joined in the effort, and the Congress enacted and President Reagan signed the first bill in our history that banned the import of a particular round of ammunition.

I make the point about the import because domestic manufacturers no longer made this particular ammunition, its only purpose being to attack police officers. And the Czechoslovaks were the principal suppliers.

That led, sir, to the reflection that guns do not kill people; bullets kill people. We have in our country an estimated 200 million guns in circulation. That, sir, is about a two-century supply of handguns.

I related this morning that as a young member of the U.S. Navy—it is almost 50 years ago—I was officer on deck, midwatch, down in the Caribbean one night. Just out of general interest a gunners mate and I took apart the .45 caliber sidearm which we wore in those days and found this automatic clip-loaded .45 in perfect condition. It had been made in the Springfield, MA, Armory in 1911. I suggested that probably some ensign is carrying it to this day.

We are going to phase out the .45's with the 9-millimeter Beretta's, but they will last well into the next century.

It happens, sir, that about a quarter of the rounds fired at police officers in New York City between 1975 and 1985 were .25 caliber or .32 caliber rounds according to a study by Cox newspapers. They come from your classic Saturday Night Special.

The weapons are not very effective. They are not very costly but they will serve the purpose of killing a police officer, or a bystander in a holdup. They are used disproportionately in crimes, the cause of murder and injury, and they have no use to the sportsmen; no use to the marksmen.

Their only use is as an aggressive weapon. And it was my thought that if we could ban the manufacture and sale of the bullets, we would reduce crime; not overnight, but in a matter of a very short time. The amount of ammunition manufactured rolls over about every 4 years, the best we can tell. We have very poor statistics. In 4 years' time—sooner in many cases—there would be no ammunition for these guns, and they would be useless.

The same should be thought about in terms of the 9 millimeter. As the Presiding Officer well knows, 9 millimeter is a new round in common use in the military and with police officers; it has a huge muzzle velocity and is used in semiautomatics and automatics.

In my city of New York, we have a situation where the police, all of a sudden, find themselves outgunned. They are on the street level with .38 sidearm revolvers; some carry automatics, concealed, as a second weapon. But on the rooftops there are young men with automatic 9 millimeter weapons that can discharge a 50-round clip in seconds. The day may come when we should be restricting 9 millimeters to only police officers.

I was going to offer this amendment, take it down, and hope that somewhere in the course of the next year, we will have another crime bill and there will be some thought to this strategy.

The young woman who was killed on North Capitol Street two nights ago may have been killed by a 9 millimeter round. Getting those rounds out of circulation in this city would not be that difficult. They are used up quickly; guns are not, but ammunition is. Absent that round, the gun is no good. A $1,000 chrome "piece," as they are called, is suddenly useless.

I was going to offer that, but I gather we cannot offer any amendments. I was going to take it down, also, and say: Can we not think of our present situation in the way epidemiologists think about public health emergencies, and to try to cut the vector. What is the easiest vector to find? You can break the cycle if you know. I suggest the easiest vector to break with respect to handguns are the bullets, which do the actual damage.

With that in mind, I had another amendment—again, it has been at the desk—which calls attention to a quite extraordinary fact, which is that the ability or the right to manufacture and to import ammunition in this country is given freely to just about anybody who wants it. The Bureau of Alcohol, Tobacco and Firearms will, for $30, give you a license to manufacture, and thereafter has no interest of any kind in what you do, asking no record of what you do.

Licensing began under the Gun Control Act of 1968.

There are thousands of licenses to manufacture and import ammunition in this country. No one keeps a record of what they do.

It takes about 30 years for a notion like this to make its way. But we have to pass the bill. We have outlawed teflon-coated cop killer bullets, and ought to ban these calibers as well.

I thought that we might ask the Secretary of the Treasury, in consultation with the National Academy of Sciences, to study this subject for us, and to think about it for us. The sub-

stance of my legislation was very simple.

Here in the District of Columbia, you can be almost certain that that young mother, dead in that drive-by shooting, was killed by a bullet.

We ought make a very simple measure.

I would also offer a third amendment, to condition the issuance of a Federal firearms license for dealers on evidence that the applicant has complied with State and local law. It is an amendment asked for by the Fraternal Order of Police, the U.S. Conference of Mayors, and New York City Police Commissioner Lee Brown, president of the International Association of Chiefs of Police.

They would like us to require the Federal Government simply to require a person who wants a Federal license to deal firearms to demonstrate that he has complied with the law in a jurisdiction where he does business.

That is not a very large requirement, Mr. President, not one at odds with reality. There are 245,000 federally licensed dealers. Here in Washington, DC, where selling firearms is illegal, the fact of the matter is that there are people selling guns out of back doors all over town, all over Detroit, all over Miami, in New York, and all over the United States.

In Ohio, a Federal licensee was shipping guns to the Irish Republican Army.

So, the Fraternal Order of Police writes to support this amendment. Lee Brown, president of the International Association of Chiefs of Police, writes to support this amendment. The U.S. Conference of Mayors writes to support this amendment which I find, because we are under cloture, I am not going to be able to offer. I could, and there would be a question of germaneness.

And under the order agreed to, we have agreed on this floor to prevent a measure that the police chiefs have asked for, the police have asked for, the mayors have asked for, that makes elemental common sense, costs nothing, deals with the bizarre fact that there are 245,000 federally licensed firearms dealers in this country.

Who are they? Where are they? What are they doing? I will tell you, a disporportionate number of them are selling guns to criminals.

We cannot do it because we are under cloture. I think if we had another death penalty, we could to it; would that not be right? Death penalties are germane.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. Would it be germane to propose there be a death penalty for getting a Federal license to sell guns in a jurisdiction where it was not legal to do so?

The PRESIDING OFFICER. The Chair would have to see the specific amendment that the Senator would offer before he could rule.

Mr. MOYNIHAN. Fine.

Mr. President, we ought to have an amendment: Punishment by death to get a Federal license before you get a State license. I think that would pass muster.

Let me describe, if I may, the other amendment I had offered which would require an importer or manufacturer of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms, on the amount, the caliber, and the type of ammunition imported or manufactured.

We have no such information. We do not know whether a billion rounds are manufactured today, or 100 million rounds. These are large numbers, and the calibers vary. One round is a perfectly legitimate sportsman's round for a rifle. Others are used for marksmen firing in licensed competition. Others are used to murder mothers of three children on North Capitol Street.

There is something imbecile about our taking enormous interest in firearms and no interest whatever in the things they fire. That is just as wrong. This would ask Secretary of the Treasury, in consultation with the National Academy of Sciences, to study the regulation in criminal use of ammunition, and make recommendations for the efficacy of controlling ammunition as a mode of controlling crime.

Again, I am sorry to say I cannot offer this because we are under cloture, and germaneness appears to make it impossible.

One would, for example, like to see that in the FBI Uniform Crime Reports which are provided by local law enforcement agencies. When we record a murder or wounding, we never record the caliber or the type of ammunition used in the crime. You have no sense of the appearance of new weapons. Police give their sense of it, but you have no record of it.

Clearly we ought to do it. It would not be much to ask. You would start getting a data base. I have to say over and over again, the number of guns are constant. Ammunition is the variable.

The PRESIDING OFFICER. The Chair will advise the distinguished Senator fron New York that he has spoken beyond the 1 hour permitted in cloture, and further the Chair will advise the Senator from New York that under the cloture rule, an amendment must be previously filed before it can be considered and offered.

Mr. MOYNIHAN. I accept the Chair's point, which is properly taken. The death penalty amendment was not filed. But, sir, and I do not mean to speak any further, surely I have not spoken for 1 hour.

Mr. BYRD. Mr. President, I ask unanimous consent that I may give 5 minutes to the distinguished Senator from New York.

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

Mr. MOYNIHAN. I thank the Chair. I have not spoken an hour, sir, and it does not require any more on my part except to say that I regret that in this long and arduous and difficult time, we have not found a few moments for consideration of these measures.

The President pro tempore has very generously suggested they might be offered on other matters that come to the floor. I will do that. And in any event, I had meant the amendment on the importation, manufacture and sale of .25, .32 caliber, and 9 millimeter rounds to be offered for purposes of introducing the subject, rather than having it resolved by vote at this time.

So, Mr. President, with thanks to the Presiding Officer for his great courtesy, and with regret that I cannot offer a penalty of death for getting a Federal license where you do not have a State license, in the confident judgment that would be germane, I yield the floor.

The PRESIDING OFFICER. The Chair advises the Senator from New York, for clarification, that the hour obtains cumulative from the previous speeches.

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

Mr. DODD addressed the Chair.

Mr. MITCHELL. I withhold that.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I ask unanimous consent to be able to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, will the Senator withhold that request for a moment?

Mr. DODD. Yes, I certainly withhold.

Mr. MITCHELL. 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. DODD. 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. DODD. Mr. President, I renew my unanimous-consent request that I be allowed to proceed as if in morning business.

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

The PRESIDING OFFICER. The time consumed by the Senator from Connecticut will be charged against cloture.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the submission of Senate Concurrent Resolution 52 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

Mr. WELLSTONE addressed the chair.

The PRESIDING OFFICER. Does the Senator withhold the quorum call request?

Mr. BYRD. Not just now.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, I rise to speak against the crime bill. This vote, when we vote, is a very difficult vote for me. It is perhaps the most difficult vote that I have cast since I have come to the Senate.

On the one hand, we have a crime bill with many important provisions; many provisions that I think we need if we are going to have real success in fighting crime in this country. We have a crime bill that has evolved through much debate and compromise and much of it is very solid, and it is an effective piece of legislation. I would like to commend both Senator BIDEN and Senator THURMOND—agree or disagree—for their leadership, and all the work they put into this bill.

What makes this vote so difficult is that this same crime bill, which has so many positive attributes, also contains provisions on habeas corpus and the death penalty that raise for me deep moral and constitutional questions. On key amendments throughout the debate on the crime bill I have had the opportunity to speak out on critical components, including the Racial Justice Act, against the death penalty, in favor of the Brady bill. I am proud and I am glad that I had that opportunity to speak on those amendments.

Now I wish, oh so much, that I had an opportunity to cast a final vote on the individual provisions of this bill separately. I wish I had the opportunity to do so because many of these provisions are exactly what we should be doing if we want to fight crime.

I support the Brady provisions which brought together, I think, people on both sides and combined a waiting period and implementation of instantaneous handgun checks. I think that is a step in the right direction.

I support aid to local law enforcement agencies. It is so important that we increase financial assistance to those men and women who are on the front lines, out in the neighborhoods, out in the streets fighting crime. And that is an essential part of this crime bill.

I support the Rural Crime and Drugs Act. I can tell you, Mr. President, as somebody who does not come from a metropolitan area, I am pleased to see this crime bill recognize that drugs and crime are not just an urban problem but a rural problem as well.

I support the designation of drug emergency assistance, just as I laud the crime bill for focusing on rural communities. I am gratified to see that the highest risk areas will receive the greatest assistance.

These are just a few of the provisions of this crime bill that I support. I support most of this bill because most of this bill represents real, not phony, solutions to the problem of crime in our communities. Unfortunately, however, I cannot in good conscience support the crime bill as a whole.

I know many of my colleagues can in good conscience support this legislation. I know that and I understand it, but I cannot. I cannot support this legislation for two very specific and compelling reasons that I mentioned earlier: Habeas Corpus and the death penalty.

On Wednesday, June 26, the U.S. Senate voted by a margin of 58 to 40 to adopt an amendment which dramatically changed how the crime bill deals with habeas corpus. No one denies that there is a need, and was a need, for habeas corpus reform. But the way the crime bill currently reads is not habeas reform, it is habeas repeal. If this crime bill passes with this habeas corpus provision, the Federal courts will have lost the power to remedy even shocking violations of the Bill of Rights. Under the habeas corpus provisions now in the crime bill, the Federal courts will be required to ignore claims even when those claims involve a clear injustice, as long as the State court has provided "a full and fair opportunity for litigation."

Let me put these new habeas corpus provisions into chilling terms that I think everybody in this Chamber can understand.

Leo Frank was a Jewish man who lived in Georgia in 1915. He was accused, convicted, and sentenced to die for killing a Christian woman in Atlanta. Leo Frank's trial in the Georgia State court was dominated by an anti-Semitic mob. Based on this fact Mr. Frank appealed his conviction to the Georgia Supreme Court which upheld the trial court. He then submitted a writ of habeas corpus with the U.S. Supreme Court, asking that his case be reviewed.

The U.S. Supreme Court refused to grant Leo Frank habeas corpus relief. A majority of the court decided that Leo Frank was not entitled to a hearing. Let me repeat that. A majority of the Supreme Court decided that Leo Frank was not entitled to a hearing because his case had already been appealed and had been ruled on by the Georgia Supreme Court. In essence, the U.S. Supreme Court refused to hear Mr. Frank's case, a case in which there had been a blatant violation of his constitutional rights, for no reason other than the State court had already granted him a hearing.

It was later established, after Leo Frank had been executed, that the mob had prevented an eyewitness to the murder from coming forward and establishing the fact that Mr. Frank was completely innocent. Leo Frank, an innocent man, a man whose life could have been saved and should have been saved, was executed because the Supreme Court refused to give him a hearing; refused because the State court had already ruled.

Eight years later after the Frank case, in the case of Moore versus Dempsey, the Supreme Court reversed itself and the Leo Frank precedent was struck down. In the Moore case it was decided that the Federal courts must be able to remedy unjust and unconstitutional State court habeas rulings.

This reversal in the Moore case did not save Leo Frank's life. It was too late. And now the U.S. Senate is close to returning to the standard established in the Leo Frank case. The Senate is about to turn the clock back 80 years, because the habeas corpus provisions in this crime bill might as well be called the Leo Frank provisions. And as much as I might support many of the provisions of this crime bill, I cannot turn my back on the legacy of Leo Frank. I cannot turn my back on the Bill of Rights, and I cannot support legislation that effectively repeals habeas corpus.

The other reason I cannot vote for this crime bill is the death penalty, and I know of no way to express my opposition to capital punishment other than by simply saying that the death penalty is wrong. It is wrong because it is immoral in principle and it is unfair and discriminatory in practice. It results in the death of innocent people. And there is absolutely no compelling reason why life imprisonment cannot be substituted for the death penalty.

The death penalty just does not make sense. It is nothing more than an illusory promise of more safety because there is absolutely no conclusive evidence that capital punishment acts as a deterrent.

I condemn the violence and the brutality that takes place on our streets and in our communities every day. But no matter how much anger I have—and I have it; and no matter how much grief I have—and I have it; I cannot accept the Government taking a life in the name of justice. The death penalty is not applied in a fair and just manner. To the contrary, it is biased, it is racist, and it is corrupt.

This point was clearly made in an article on the front pages of Wednesday's New York Times, which unequivocally reported on the predominance of racial bias in death penalty sentencing in Georgia, and Georgia is not alone. Many studies illustrate this, that the

death penalty is racist and biased in its application. And all too often it is absolutely true that capital punishment is for those without the capital.

Mr. President, that is not justice. That is not America. And that is not something that should be part of any legislation that this Senate passes.

I do not like voting against this crime bill. It is a terribly difficult vote. But I promised myself I would vote what I believe in, and my vote against this crime bill is a personal conscience vote.

Mr. DOMENICI. Mr. President, this bill, S. 1241, contains the heart of the President's crime bill. When the Senate began consideration of S. 1241, it was a Democratic bill. Now it contains the heart of the President's bill plus several provisions of importance to Democrats and Republicans alike. The bill includes:

First, comprehensive Federal death penalty: Senator BIDEN and I worked together to arrive at a death penalty provision which is virtually identical to the death penalty contained in the President's crime bill. The Senate removed the so-called Racial Justice Act which would have eliminated the death penalty in every State. The bill will give Federal prosecutors their first comprehensive death penalty since 1972. In addition to authorizing the death penalty for over 40 murder-related offenses, it also authorizes the death penalty for major drug kingpins. As a result of Senator D'AMATO'S amendment, the arm of the Federal death penalty has been extended to virtually every murder committed with a firearm.

Second, habeas corpus reform: The Senate passed President Bush's habeas corpus reform proposal which is the toughest habeas reform ever to pass the Senate. This measure will put an end to the intolerable delay in carrying out death sentences. In the long run, this habeas reform will prove to be the most valuable crime fighting legislation the Senate passes since murderers will actually be executed. It will effectively eliminate unreasonable Federal judicial interference with State capital cases and put an end to the delaying tactics of death row inmates.

Third, aid to death penalty States: The Senate has ensured that for every Federal dollar given to anti-death-penalty litigation groups, an equal dollar will be given to the State litigators as well. Congress has, in the past, unilaterally funded capital resource centers whose only goal is to eliminate the death penalty in the States. Now, the State attorneys general will be given equal funding to balance the scales of justice.

Fourth, anti-terrorism provisions: Senator BIDEN essentially accepted the President's language on aviation and maritime terrorism.

Fifth, victims: The bill lifts the cap on the crime victims fund which helps crime victims recover financially. In addition, the bill contains Senator NICKLES language on mandatory restitution for crime victims. Both of these provisions, in addition to habeas reform, are strongly supported by victims' groups.

Sixth, tough penalties: The Senate passed tough mandatory minimum penalties for the use of a firearm in a violent crime.

Seventh, child abuse: Uniform reporting requirements were established to keep track of child molesters and abusers.

Eighth, additional law enforcement: This bill provides additional funding for State and local law enforcement. In addition, the bill increases authorizations for Federal law enforcement, with a special emphasis upon placing more agents in rural America.

Ninth, public corruption: The bill contains provisions which will enhance the Federal Government's authority to investigate and prosecute public corruption cases.

REGIONAL VIOLENT CRIME ASSISTANCE ACT

Mr. RIEGLE. Mr. President, the crime bill the Senate is considering contains a number of provisions to make our communities safer. Some provisions will have little effect; others greater. But perhaps the most important thing we are going to do here is send more Federal assistance to local police men and women, to the sheriffs, and to the State police. They desperately need it.

State and local law enforcement agencies are struggling to stop the avalanche of crime that is falling upon them. My amendment, adopted by the Senate last evening, targets greater Federal crime fighting assistance directly to the areas that need it the most.

Current Federal assistance to State and local law enforcement is not adequately targeted to high crime areas. Federal funding is largely based on population, even though violent crime rates and violent crime problems vary dramatically from city to city. This proposal supplements the resources of communities that have the greatest violent crime problems.

My amendment complements provisions in the crime bill that direct assistance to areas of particular need. The sections that address rural crime and drug-related crime, for example, promise to provide needed help in these areas and I support them.

The regional violent crimes areas amendment goes directly to help communities fight violent crime. It provides $50 million to be distributed by the Attorney General to the States for communities and regions that face violent crime problems requiring greater resources.

Violent crime has devastated urban areas in our country. Young men growing up in parts of some cities are more likely to die a violent death than they are to graduate from college.

Violence has driven people from our cities, often leaving the poorest and most vulnerable citizens to face the criminal devastation.

We cannot afford to leave our citizens in these circumstances.

Cities with high violent crime rates often have the most underfunded schools and health facilities. These cities are also the ones with the most limited tax bases from which to meet their pressing needs. In these communities, the choice between education and law enforcement, for example, is the most painful. Violent crime does not stop at the city limits. Suburban areas, small cities and towns have not been spared the ravages of violent crime.

Drug dealers and other criminals are moving their operations to towns outside large urban areas to avoid big city police departments. These areas often employ only a handful of law enforcement officers and are unable to control the wave of violent crime. Under this amendment, these communities could receive supplementary assistance.

My amendment also encourages police departments to work with neighboring police departments to fight their common problems. The Attorney General may give priority in awarding grants to regional and multijurisdictional partnerships that develop cooperative plans to reduce crime—to prevent criminals from hiding out and terrorizing communities that do not have the law enforcement resources to handle them.

Finally, funds under this program can be used in several ways. Grants could be awarded to improve law enforcement or to improve the criminal justice system in general. This allows communities to use the money in the most effective way to get criminals off the streets.

My proposal goes right to the heart of our violent crime problems; it is an important step in getting help to areas that need it the most. It promotes teamwork between police departments. And it allows law enforcement authorities to use this assistance in the way that best reduces violent crime.

I am pleased that it has been adopted by the Senate.

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

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. 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.

UNANIMOUS-CONSENT AGREEMENT—S. 323

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time proceed to the consideration of Calendar No. 125, S. 232, the gag rule bill, notwithstanding the provisions of rule XXII.

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

Mr. MITCHELL. 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. DANFORTH. 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. DANFORTH. Mr. President, I ask unanimous consent that I may proceed for 5 minutes or so as though in morning business.

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

JUDGE CLARENCE THOMAS

Mr. DANFORTH. Mr. President, I regret to say that this afternoon the Congressional Black Caucus held a meeting in which it voted to oppose formally the nomination of Clarence Thomas to the U.S. Supreme Court. And it is my understanding that at that meeting it was further decided that the Congressional Black Caucus would attempt to mount a sort of political campaign throughout the country against the Thomas nomination. The effort would be made, as I understand it, to communicate with black political leaders throughout America and urge them to weigh in against the Thomas nomination.

I regret their decision for several reasons. One, because it was really a rush to judgment. No effort was made to find out the facts. It was even decided not even to try to review Judge Thomas' record before making the decision.

But there are a couple more reasons that cause me even more concern. The first is that I am concerned that we are seeing a rerun of what happened with the Bork proceedings. At that time there was an effort by opponents of Judge Bork to in effect go over the head of the Senate, particularly during the summer recess at that time, and to whip up various interest groups by creating the impression that Judge Bork was something of an ogre, a villain, and by so creating that impression frighten various groups to in turn weigh in with their Senators, and make appeals with their Senators particularly during the recess.

I do not think that confirmation proceedings should be conducted in that way. I do not believe that confirmation proceedings for the U.S. Supreme Court should be political campaigns designed to build blocs of interest groups to oppose a Supreme Court nominee. For that reason, I am very concerned about this development. I can see it coming all over again: The politicization of the confirmation process, as though it was a political campaign as though it was a campaign for President or the Senate.

Mr. President, there is another reason why I am particularly concerned, and this, to me, is the greatest reason why we should be aware of what I am afraid is going on. The worst threat to this country is nothing that happens abroad. The worst threat to this country, in the opinion of this Senator, is not the deficit and the budget, or anything relating to the economy. The worst threat to this country is divisiveness on the basis of race. That is the great threat to America.

The great challenge to America is how to hold our country together as one people, regardless of race; how to draw us together and hold us together. So the great threat is the politics of race. And it is a very attractive political tool. It has been used by Republicans; it has been used very recently by Republicans, and it has been advocated by Republicans: Let us play the race card.

But it is no less playing the race card for members of the Congressional Black Caucus to organize black politicians around the country to oppose a black judge who has been nominated for the Supreme Court on the basis that he does not have the right ideology. That is racial politics. That is divisive. And that is at least equally as dangerous as anything that is done with respect to the quota card.

The reason I have been trying to work on a civil rights compromise is to get race out of partisan politics and to get it into partisan politics, no matter what the source, is something that threatens the very fabric of this country.

Mr. President, I hope that Americans—white and black—all over America will say: We just do not want this to happen; we do not want it to happen in the context of the civil rights legislation; we do not want to have it happen in the context of the Thomas nomination. That is a thing of the past. That is a thing of the days of Theodore Bilbo and the Ku Klux Klan. That is not America of 1991.

The American people are going to be appealed to, apparently, as members of interest groups or racial groups, on the Thomas nomination. What Clarence Thomas stands for is that a person can be black, and he can think anything he wants and say anything he wants.

What Clarance Thomas said today when he was visiting one of the Senators was that he hoped that his nomination could further healing in this country along racial lines. We are going to have to ask ourselves whether we want healing, or whether we want more division; whether we want Americans to say "no" to this racial divisiveness, or whether we are going to fall for it yet again.

Whatever the decision, Mr. President, this Senator is going to do his best to point out what is happening in this debate. Let us have it all in the open—not just 40 phone calls; not just little letter-writing campaigns and an order to make people afraid of Clarence Thomas. Put it out in the open; call attention to it; put it in the spotlight of public attention, and let the American people respond.

I think the American people will say about Clarence Thomas: This is a decent person, and this is a qualified person, and this is the kind of person we want on the Supreme Court of the United States. And we are not going to be frightened and divided. We are going to support him, or we are going to oppose him on the basis of his human qualities or on the basis of his judicial policies, and not on the basis of some effort ripped up on the basis of race.

Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

DIVISIVENESS AND RACISM

Mr. SIMPSON. Mr. President, I hope many of us heard those remarks of the senior Senator from Missouri. He is a man, I think, that commands our deepest respect. He is an extraordinary man, a man who has served in so many capacities, who has given us a conscience on many issues that come before us.

You will remember that it was Senator DANFORTH and Senator PRYOR—and we send him our prayers and blessings, and hope that he heals completely—that began to talk of the quality of life in this place. They worked very hard.

Here is a man who is a lawyer and an Episcopal priest, and when he speaks about divisiveness and racism, we should listen. I think today's action by the Congressional Black Caucus regarding the nomination of Judge Clarence Thomas for the U.S. Supreme Court is the worst form of injustice. I guess it would even be the worst form of prejudice. When you use the dictionary word of prejudice, just try to keep racism out of the word when you think of it.

But the caucus has already now passed judgment on Judge Thomas, passed judgment on his qualifications, without the benefit of a Senate Judiciary Committee hearing and without examining his record in any way, except on the issue of racism. How curious; how appalling; how repugnant.

And so, indeed, the American people will not even know why the caucus has

taken this precipitous action until sometime next week, when they will present to us some kind of trumped up charges against this outstanding individual. I think it is appalling.

I know many members of the Black Caucus. I intend to visit with them and ask them who did the arm-twisting on this one, and did not even allow Chairman JOE BIDEN and the ranking member, STROM THURMOND, to go forward—and we will go forward, I can assure you—with a hearing on the qualifications of one extraordinary human being, who is already serving on the Federal district bench, in the circuit court.

I concur fully with the remarks of my dear friend from Missouri. This is appalling conduct, very unbecoming, very divisive, and very unfortunate.

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

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

The assistant 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 is recognized.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 1467 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, what is the status,

The PRESIDING OFFICER. The Senate is considering S. 1241, the crime bill, which is not pending.

Mr. GORTON. I ask unanimous consent that I be allowed to proceed for 5 minutes as in morning business.

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

The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1469 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. 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. 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.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2622

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 1 hour for debate on the Helms amendment No. 734 to the Treasury-Postal appropriations bill to be equally divided between Senators KENNEDY and HELMS; that upon the use of yielding back of time the Senate, without any intervening action or debate, proceed to vote on the Helms amendment; that immediately upon the disposition of the Helms amendment No. 734, the Senate, without any intervening action or debate, proceed to vote on the committee amendment; that there be 1 hour for debate, equally divided in the usual form, on each of the following first-degree amendments to H.R. 2622, and that they be considered in the following order:

A Kennedy amendment that is AIDS related; a Dole amendment that is AIDS related; a Mitchell amendment that is AIDS related: a Helms amendment that is related to child pornography; that no other amendments or motions to recommit be in order prior to the disposition of these amendments other than those referred to in the succeeding agreement; that at the conclusion of yielding back of each of these amendments, the Senate, without any intervening action or debate, proceeded to vote on each amendment; that the pending committee amendment and the Helms Amendment No. 734 be laid aside until Thursday, July 18, at a time on that day to be determined by the majority leader after consultations with the Republican leader; and that the other Helms amendment and the Kennedy, Dole, and Mitchell amendment referred to in this agreement not be in order prior to Thursday, July 18.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 2622, the Treasury-Postal Service appropriations bill on Monday, July 15, at 3:30 p.m., the only amendments remaining in order to the bill be the following first-degree amendments and those listed in the preceding agreement:

Two committee amendments, including the Helms perfecting amendment; a Kohl amendment regarding the IRS, which by previous consent will be considered under a 1-hour time limit; a Dodd amendment regarding locality pay; a Burns amendment regarding restrictions on first-class mail and postcards; a Bentsen amendment regarding the striking of section 104 and/or 102; a Smith amendment regarding the naval shipyard at Portsmouth, NH; and a managers' technical amendment; further, that the amendments be considered in the order listed, with the exception of the committee amendment with the Helms perfecting amendment; and that on Monday, if a Senator is not present and ready to offer his amendment upon disposition of the previous amendment, then that amendment is no longer in order; that no motion to recommit the bill be in order; and that on Monday no rollcall votes occur before 7 p.m.

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

VIOLENT CRIME CONTROL ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President and Members of the Senate, we will now proceed to vote on final passage of the crime bill. Because of the lateness of the hour and the fact that several Senators are not currently in the Capitol, we will have to have a period of approximately 15 minutes or so before we begin that vote, and that will be the last vote this evening. We will then not be in session tomorrow.

We will return to session at 3 p.m. on Monday, returning to the Treasury-Postal appropriations bill at 3:30 on Monday. Under the agreement just reached, there will then be a series of amendments offered on Monday with votes on those amendments to occur on Monday evening with no vote to occur prior to 7 p.m.

I am advised by the managers that it is not possible to know at this time precisely how many will require rollcall votes, but at least two or three of them are likely to require rollcall votes. So Senators should be aware that we will proceed on the Treasury-Postal appropriations bill on Monday with votes to occur after 7 p.m.

We will then have completed all action on the Treasury-Postal appropriations bill other than the amendments relating to AIDS and child pornography which were the subject of the first agreement. Those will be disposed of on Thursday at a time on that date to be determined by the majority leader following consultation with the Republican leader.

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. 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.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following

be the only amendments in order to S. 1241, the crime bill: A Specter technical amendment related to the police corps, with a technical second-degree amendment; a Thurmond amendment striking title XXII on strike forces from the bill; a manager's amendment providing for prosecution funding; that these three amendments at the desk be considered read and adopted en bloc; that the motions to reconsider the adoption of these amendments be tabled; that no other amendments or motions to recommit be in order; that the time remaining on the bill be reduced to 12 minutes equally divided and controlled by Senators BIDEN and THURMOND; and that upon the expiration of this time, the Senate vote, without intervening action, on final passage of the bill.

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

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL] proposes, amendments numbered 746, 747, 490, and 472, en bloc.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 746

On page 86, strike line 3 and all that follows through page 114, line 10, and insert the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liasions, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaurate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The Total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the casse of graudate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provisions set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties;

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participants must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing gradute study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction to the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) a participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police

Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 185. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SECTION 821. SHORT TITLE.

This Subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Subtitle".

SEC. 822. DEFINITIONS.

As used in this Subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this Subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this Subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this Subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this Subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this Subtitle and shall, in consultation with the Assistant Secretary of Postsecondary Education, issue rules to implement this Subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this Subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this Subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

SUBTITLE C—REPORTS

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

AMENDMENT NO. 747 TO AMENDMENT NO. 746

(Purpose: To reduce the amount of scholarship moneys provided to participants; to provide for individuals tranferring to a 4-year institution to participate in Police Corps; to ensure that the participants may receive a leave of absence for church missionary work; and for other purposes)

(1) On Page 6, line 12, replace "$10,000" with "$7,500"; on line 18, replace "$13,333" with "$10,000"; on line 21, replace "$40,000" with "$30,000".

(2) On Page 7, line 19, replace "$10,000" with "$7,500"; on line 25, replace "$13,333" with "$10,000"; on Page 8, line 3, replace "$40,000" with "$30,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following:

", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses."

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17–20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection"

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence."

(1) After Page 19, line 19, add the following new paragraph (d):

"(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the partici-

pants' completing 4 years of service, and result in denial of educational assistance under section 812, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.".

Mr. LIEBERMAN. Mr. President, I am proud to join in supporting the Police Corps and Law Enforcement Training and Education Act of 1991. I firmly believe that establishing a National Police Corps Program modeled on the military's ROTC program, will greatly assist those who are on the frontlines fighting crime—our State and local police forces. Like the military's ROTC program, the national police corps should help police forces in attracting committed and qualified students from all walks of life who might not otherwise have considered law enforcement careers. The police corps graduates should provide welcome relief to our overburdened police forces.

The deterioration of personal security in America is very real and alarming. Our citizens rightfully expect to live in communities free of fear from criminal activity. The outcry for anticrime legislation that we are hearing from every segment of our society requires a reasoned but strong response. In 1988, reported crimes in the United States reached 14 million, four times the number in 1960. Even more disturbing, there were 1½ million violent crimes reported in 1988, five times the incidence in 1960. Violent crimes rose by 14 percent between 1980 and 1988 and that does not even reflect the full horror of criminal activity because, according to Justice Department estimates, more than half of most crimes are never reported to the police. While the number of crimes has drastically increased, the relative strength of our police has decreased. In 1951, in cities with populations over 50,000, there were more than three police officers for every reported violent crime. By 1988, there were more than three violent crimes for every police officer.

While I agree that it is important to understand the many social, economic and cultural factors behind the huge surge in crime, we must first organize programs that are directed at immediately putting down crime and putting criminals in jail. The Police Corps Program will help police departments across the country do just that. The fact of the matter is that at present our police are outmanned on the streets. At a time when violent crime is rising dramatically, the number of police officers assigned to patrol duty, those who are actually on the streets, has not kept pace. Eighty percent of police chiefs surveyed in a Justice Department study reported a desperate need for additional officers.

Our outnumbered police must make the most difficult decisions affecting the fundamental rights of citizens under the most trying circumstances. We need not only more officers, but we need to attract highly qualified young people to law enforcement. The police corps offers a way to recruit qualified students to join State and local police departments and provide them with the benefits of a college education. Police corps graduates are volunteering for a particularly difficult and dangerous form of public service. They will not be an elite corps performing administrative duties, but rather they will be deployed in patrol units where the need is greatest. All police officers, whether they are police corps participants or not, must be our very best qualified persons to help our society take back the streets.

I know that there are those who are skeptical of the Police Corps Program because they doubt that its participants will become proficient police officers in only 4 years of service. However, this program will attract many talented men and women to careers in police work who might not otherwise have entered the profession. Many of those who enter the program for scholarship assistance will no doubt remain in police forces longer than the 4-year commitment and some will likely opt for law enforcement careers.

I am particularly excited about the prospects of a police corps in my own State of Connecticut. I have supported efforts by leaders in public office in Connecticut to establish a Connecticut Police Corps. Recently legislation was enacted by the State senate to establish a task force to consider the establishment of a police corps at public institutions of higher education. By January 1, 1992, this task force will submit a report of its findings and recommendations. I know that Connecticut will be ready and eager to implement a National Police Corps Program.

Public service programs such as this promote a better understanding and appreciation of the work our police perform. We must realize that government alone cannot solve the problem of crime. A collective response from all segments of our society is required to restore the order and security that a civilized nation has a right to expect. Participation by those who serve in the police corps will help promote civic cooperation and will demonstrate to all citizens that crime fighting is a civic responsibility in which we all must play our part.

AMENDMENT NO. 490

Strike title XXII.

AMENDMENT NO. 472

At the appropriate place, insert the following new Section:

SEC. . FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §§3711 et seq.) is amended by adding the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to federal appropriation, in the same fiscal year."

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we have been on this crime bill now for several weeks, and I am glad that it has finally come to a conclusion.

This bill, S. 1241, contains the heart of the President's crime bill. When the Senate began consideration of S. 1241, it was a Democrat bill. Now it contains the heart of the President's bill plus several provisions of importance to Democrats and Republicans alike. Some troublesome provisions but are outweighed by the tough provisions in the bill. The bill includes:

First, comprehensive Federal death penalty. Senator BIDEN and I worked together to arrive at a death penalty provision which is virtually identical to the death penalty contained in the President's crime bill. The Senate removed the so-called Racial Justice Act which would have eliminated the death penalty in every State. The bill will give Federal prosecutors their first comprehensive death penalty since 1972. In addition to authorizing the death penalty for over 40 murder-related offenses, it also authorizes the death penalty for major drug kingpins. As a result of Senator D'AMATO's amendment, the arm of the Federal death penalty has been extended to virtually every murder committed with a firearm.

Second, habeas corpus reform. The Senate passed President Bush's habeas corpus reform proposal which is the toughest habeas reform ever to pass the Senate. This measure will put an end to the intolerable delay in carrying out death sentences. In the long run, this habeas reform will prove to be the most valuable crime fighting legislation the Senate has passed, since murderers will actually be executed. It will effectively eliminate unreasonable Federal judicial interference with State capital cases, and put an end to the delaying tactics of death row inmates.

Third, aid to death penalty States. The Senate has ensured that for every Federal dollar given to anti-death-penalty litigation groups, an equal dollar will be given to the State litigators and prosecutors as well. Congress has, in the past, unilaterally funded capital resource centers whose only goal is to eliminate the death penalty in the States. Now, the State attorneys general will be given equal funding to balance the scales of justice.

Fourth, antiterrorism provisions. Senator BIDEN essentially accepted the President's language on aviation and maritime terrorism.

Fifth, victims. The bill lifts the cap on the crime victims fund which helps crime victims recover financially. In addition, the bill contains Senator NICKLES language on mandatory restitution for crime victims. Both of these provisions, in addition to habeas reform, are strongly supported by victims' groups.

Sixth, tough penalties. The Senate passed tough mandatory minimum penalties for the use of a firearm in a violent crime.

Seventh, child abuse. Uniform reporting requirements were established to keep track of child molesters and abusers.

Eighth, additional law enforcement. This bill provides additional funding for State and local law enforcement. Furthermore, the bill increases authorizations for Federal law enforcement, with a special emphasis upon placing more agents in rural America.

Ninth, public corruption. The bill contains provisions which will enhance the Federal Government's authority to investigate and prosecute public corruption cases.

Mr. President, I think we have come up with a good crime bill, as a whole. As I said, there are some provisions that are not favorable, but the good ones outweigh the ones that are not favorable.

Mr. President, in closing I want to take this opportunity to express my deep appreciation to the majority leader, Senator MITCHELL; and the minority leader, the Republican leader, Senator DOLE, for the fine cooperation they gave us during the consideration of this bill.

I wish to express my appreciation to Senator BIDEN, from Delaware, the chairman of the committee, for the cooperation he has extended during the consideration of this bill.

I wish to thank especially Senator HATCH, Senator SIMPSON, and Senator GRAMM of Texas for the great help they rendered during the consideration of this bill. Many others helped, but time does not permit to recall all of them.

I would also like to thank the able Attorney General of the United States, Richard Thornburgh, for the work he did on this measure and the valued assistance his aides provided. Lee Rawls, the Assistant Attorney General, Kevin Holsglaw, Roger Pauley, Paul McNulty, and others were a great assistance.

I want to thank also, on the Republican staff, my staff, Manus Cooney, Terry Wooten, Thad Strom, and John Grady, who worked tirelessly, who were here day and night assisting, and who rendered magnificent service in the consideration of this bill.

I wish to express to Mark Disler, from Senator HATCH's staff; Darrell Panethiere, from Senator HATCH's staff; Mr. Warren Schaeffer, from Senator SIMPSON's staff; and Mr. Kerry Tymchuck, from Senator DOLE's staff that I appreciate the great work they did in consideration of this bill.

On the Democratic staff, we wish to express appreciation to Ron Klain, Jeff Peck, Victoria Nourse, and Chris Putala. All of these people have rendered an outstanding service, and are due much credit for the passage of this bill.

Finally, and most importantly, I would like to thank President Bush for his perseverence and unyielding dedication to achieving a tough comprehensive crime bill.

If this bill passes the House, it will be a great bill for the whole country. And we appreciate the consideration given by everybody in the Senate and the staffs in getting this bill passed.

Again, I have already thanked Senator BIDEN. I want to thank him again for working with us in the passage of this bill.

Mr. BIDEN. Mr. President, I thank the Senator.

FEDERAL FUNDING FOR STATE CAPITAL LITIGATORS

Mr. SPECTER. Mr. President, I am pleased that, under an agreement worked out by the managers of the bill, the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished ranking member, Senator THURMOND, my amendment, cosponsored by Senator THURMOND, Senator HEFLIN, and Senator SHELBY, to require the Bureau of Justice Assistance to provide grants equal to the Federal funding received by capital representation resource centers to State and local prosecutors to assist in the handling of capital cases in habeas corpus proceedings has been adopted by the Senate.

I believe that this amendment is an important one. Through their elected representatives, the people of 36 States have demonstrated that they support the death penalty. The death penalty must be constitutionally imposed if we are to retain it as a viable sanction. In order to ensure that the death penalty is imposed in accordance with the requirements of the Constitution, the Federal Government has been providing funding to capital representation resource centers in many of the States with the death penalty. These resource centers assist indigent defendants sentenced to death to bring habeas corpus petitions. This program, run through the Administrative Office of the United States Courts, is a critically important one.

It is important to grant Federal assistance to both sides in such important litigation. For example, in Pennsylvania a capital resource center is scheduled to open in fiscal year 1992 with a projected staff of eight. The Pennsylvania Attorney General's Office litigates death penalty cases on Federal collateral review with a staff of only two lawyers and one assistant. This inequity in resources, brought to my attention by Pennylvania Attorney General Ernest Preate, can place great strains on the State's representatives, who usually handle multiple capital cases, and can lead to an incomplete presentation of a case to a Federal court. This, in turn, restricts the court's ability to consider carefully and fully all aspects of a case. In the end, the system and all involved, including the defendant and the public, are losers. Providing Federal resources to enable prosecutors to employ more resources so as to make more effective presentations in Federal habeas cases will only benefit the system by enabling courts to make more fully informed and therefore better decisions.

My amendment merely authorizes the Bureau of Justice Assistance to provide funding to match what the Federal Government has been providing to resource centers. The funds would come from the Bureau's allotted funding. The amendment does not authorize any new money, and is therefore neutral in its overall effect on the Federal budget.

I wish to thank and compliment the distinguished managers of the bill for agreeing to this amendment, which has received the strong support of the National Association of Attorneys General and the Department of Justice.

Mr. BIDEN. Mr. President, I want to thank also my friend from South Carolina. He is a great fellow. I love him. It is amazing how he has turned the Biden bill into the President's bill. I find it fascinating, and I enjoy it. I do not care what we call it now, as long as we pass it.

I ask unanimous consent that a table here listing the major provisions of the Senate crime bill: Listing topic, and what was in the Bush crime bill, what is in the Biden crime bill, and what is now about to become law, be printed in the RECORD.

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

MAJOR PROVISIONS OF SENATE CRIME BILL

Topic	Biden	Bush	Senate bill
Brady bill	Includes modified Brady bill.	None	Includes modified Brady bill.
Assault weapons	Includes "DeConcini" ban.	None	Includes "DeConcini" ban.
Death penalty:			
No. of offenses.	51	46	51.
Mentally retarded.	No	Yes	No.
Indian sovereignty.	Yes	No	Yes.
Homicide only	Yes	No	No.
Aid to local law enforcement.	10,000 new officers.	No provision	10,000 new officers.
Exclusionary rule	Codifies current law.	Allows warrantless searches.	Codifies current law.
Prison/boot camps.	Yes	No	Yes.
Habeas corpus	Powell-type reform.	Drastic restriction.	Drastic restriction.

MAJOR PROVISIONS OF SENATE CRIME BILL—Continued

Topic	Biden	Bush	Senate bill
Police corps	Yes	No	Yes.
Alien terrorist removal.	No	Yes	No.
Rural crime plan	Yes	No	Yes.
Youth gang plan	Yes	No	Yes.
Drug emergency areas.	Yes	No	Yes.

Mr. KOHL. Mr. President, I rise in support of S. 1241, the Violent Crime Control Act. The Senate began consideration of this bill over 3 weeks ago. It has been a long and arduous effort, often extending deep into the night. At times final passage of this measure appeared unattainable. Yet, by persevering, addressing controversial issues, and maintaining a focus on passing a bill that confronts violent crime, I believe we have come up with a good bill. There are provisions I do not like about this bill—death penalty, mandatory minimum sentences, and others—but on balance, I believe it will help reduce violent crime. Therefore, I will vote for the bill.

It is important that this bill be put in perspective. In 1989 one violent crime was committed every 49 minutes in Wisconsin—one rape every 8 hours, 51 minutes; one robbery every 2 hours, 24 minutes; one aggravated assault every 1 hour 28 minutes. In 1990 there were 223 murders in my State—the largest number ever. These crimes strike at the very fabric of our society. Clearly, violent crime remains a threat to every citizen.

Mr. President, occasionally, during consideration of S. 1241, the Senate engaged in debate on superfluous matters—seeking political gains rather then producing legislation. It is unfortunate that we allowed politicking to interfere with the legislative process to the extent that it could have detracted from the accomplishments of this bill. We would do well to remember our obligation to our constituents and give politics a lower priority on future matters of similar magnitude, such as the civil rights bill.

The crime bill we are about to adopt has problems, but also many worthwhile provisions. The Brady compromise, developed with the assistance of Senators MITCHELL, METZENBAUM, myself, and others is a step in the right direction—toward a reasonable national gun policy. The bill also provides substantial funding to Federal State, and local law enforcement, the core of any effort to combat violent crime. Additionally, S. 1241 as amended, contains language reforming habeas corpus, codifying the good faith exception to the exclusionary rule, and strongly punishing violent gun and drug-related crimes.

Mr. President, although I do not agree with every provision, I believe this crime bill is, in total, a good effort, and I will vote in favor of final passage. In retrospect, the work of the floor managers has been herculean. I congratulate Senator BIDEN, Senator THURMOND, Senator DOLE, and Senator MITCHELL, whose patience and endurance are unparalled

Mr. WALLOP. Mr. President, the frustrations generated by not effectively addressing crime in this Nation now threaten to limit our liberties. In an honest struggle to deal with the problems plaguing our streets, we in the Senate have spent considerable time and effort trying to come up with a strong package that will actually deter crime.

All sorts of emotional and intellectual arguments have surfaced. But, Mr. President, any way I look at it, the bottom line remains the same. This crime bill contains a measure that limits and restricts a constitutional freedom that is an integral part of Wyoming's traditions and lifestyle—the right to keep and bear arms.

I am mindful today that Cheyenne Frontier Days—the rodeo "Daddy of 'Em All"—begins later this month in Cheyenne, WY. It is a rodeo tradition to kick off all Sunday rodeos with a recital of the "Cowboy's Prayer." The announcer will ask for a moment of silence before the prayer, part of which reads:

> Oh, Lord, I've never lived where churches grow. I've loved creation better as it stood that day you finished it so long ago and looked upon your work and called it good. Make me a partner of the wind and sun and I won't ask for a life that's soft or high. Let me be easy on the man that's down, let me be generous and kind to all. Make me as clean as the wind that blows behind the rains, and free as the hawk that circles down the breeze.

The recital of "A Cowboy's Prayer" is a glimpse of our traditional richness for those visting Frontier Days from distant places and it is the truth restated for those of us who have been fortunate enough to live the life.

Debate on this floor often turns to regional interests as expressed by westerners and easterners and it is so. Our western life—our values, traditions, and culture—are not the same as those of New Jersey, or New York, or Washington DC. Nor are our problems. It is for this reason that we so value and cherish State's rights. It is on the State level that much of our governance should occur.

The gun control provision in this bill is the product of many long hours. It is a well-intentioned compromise. But it is also an attempt to uniformly address problems that are not, in fact, uniform at all. No doubt, hard work and good faith have fashioned this gun control measure, which imposes a waiting period. But I believe that this provision is wrong for Wyoming.

I, like everyone, am greatly disturbed by the ever-increasing horrors of crime. Of course, there should not be a free flow of guns and weapons to criminals and impulse buyers with murder in their hearts. But if the purpose of a waiting period is to keep weapons from would-be murders, I don't believe it will work. We have no evidence that waiting periods deter criminals.

The Federal Government should not infringe on the personal rights and interests of law abiding citizens by making them wait for 7 days, or 5 days, or 2 days to go about their personal business. I did support Senator STEVENS' approach, one which this body rejected. His amendment would have provided for the instant identification of felons without chipping away at our personal liberties.

It is very distressing to see us dance around the second amendment as though it was written for another time and another people. When Congress first voted on the second amendment, it was clear that the amendment would protect the freedom of bearing private arms. The rights to that personal freedom have not diminished.

Mr. President, Congress cannot legislate good morals, good will, or good behavior in spite of our desire to deter crime. We already have gun control measures in place that appropriately limit personal use. The Government may and does restrict the types of arms that are owned. Artillery weapons, sawed-off shotguns, and others are banned—they are illegal. Registration and licensing requirements are also forms of gun control—highly appropriate and responsible as long as they don't infringe on second amendment rights. The Federal Government bans the ownership of guns by minors, felons, and the mentally impaired. The carrying of guns outside the home is limited and often banned.

What everyone really wants is the assurance that guns will not be placed in the hands of those who will abuse them. Unfortunately, Mr. President, this would be possible only in a perfect world.

Gun control measures take freedoms—they add bureaucratic restrictions and they will not control the actions of people who intend to do harm.

Regretfully, I must vote against this bill.

Mr. CHAFEE. Mr. President, I would like to take a few minutes to make a brief statement about the vote on S. 1241.

As my colleagues well know, I long have opposed the death penalty, and have stated my opinion on capital punishment before this body many times. I have worked with Colleagues in offering amendments that substitute the sentencing option of mandatory life imprisonment for that of the death penalty.

On this bill, I voted against each and every death penalty amendment offered, and supported an amendment by my colleague from Illinois to substitute mandatory life imprisonment

for the death penalty. To my mind, we in this body have begun to apply the death penalty to everything except school truancy. That does not bode well, and I do not think it is wise. The death penalty is irreversible, studies show that it does not deter, and I believe it frequently turns criminal trials into Roman circuses.

But this year, as it was last year, a clear majority of the Senate has indicated by rollcall votes that they do not agree with my view.

This bill does contain two other provisions that I feel strongly—and positively—about: limitations on assault weapons, and a national 5-day waiting period for the purchase of handguns.

With pasage of this bill, the Senate will indicate its support for limiting nine kinds of assault weapons. Last year, on three separate occasions, this body voted to retain the assault weapons provisions of S. 1970. That was unprecedented. Yes, we have voted to ban undetectable plastic weapons, and yes, we have approved bans on new machine guns, but never have we approved limitations on military-style assault weapons. This bill is a major step forward in that respect.

We also had extensive debate on the so-called Brady bill, named after Jim and Sarah Brady who have worked so long and so tirelessly on this issue. I am pleased that the Senate voted down an amendment to replace the Brady bill with an instant check system. I am also pleased that the members in this body were able to work out a compromise that I believe will strengthen the original Brady measure. As I stated at the time, I would have preferred that a waiting period remain in place past the point when a check system is implemented. However, the Senate did vote to drop the provision on pre-exemption of State law, and that means States such as my own retain the ability to craft the laws as they see fit.

The law enforcement community wants these gun provisions and have lobbied long and hard for them. The Fraternal Order of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, the Federal Law Enforcement Officers Association, the International Association of Chiefs of Police, the Major Cities Chief Administrators, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, the Police Executive Research Forum, the Police Foundation, and the Police Management Association—all view these bans as crime control tools. Right now, they are waging war against criminals who are stocked with firepower worthy of Rambo. They need our help and we should give it.

I therefore will be supporting the overall omnibus crime bill. As I have said many times, I do not support the death penalty and, indeed, I also have serious concerns about other sections of the bill. But the Senate has spoken repeatedly, and it is clear I can do nothing—at least for now—to change its mind. The assault weapons ban and the waiting period are two provisions, however, that are major steps forward and are worth saving.

For that reason, I will support this bill.

Mr. HATFIELD. Mr. President, like many of my colleagues, I too have received the flood of letters and calls from my constituents asking me to put a stop to the spiraling crime rate in this country. The Senate has labored these past weeks to put into law measures with teeth, measures that will check this epidemic of crime. I am pleased with much of the progress that has been made.

Unfortunately, however, this bill still retains the expansive death penalty provisions that have been urged upon and accepted by this body on so many occasions. The death penalty is an outdated, ineffective, and embarrassing practice. I find it to be the most repugnant aspect of this legislation. Consequently, Mr. President, I find myself in the position of having to vote against S. 1241, the omnibus crime bill.

There are many provisions included in this legislation that I believe have merit. For example, the bill extablishes 3,000 new Federal law enforcement officer positions and includes significant antigang provisions. We have also expanded the list of federally regulated precursor chemicals. These chemicals are now used in the meth labs in Oregon and across this country to manufacture the methamphetamines that are killing our young people.

I am encouraged that this year's crime bill improves a prisoner's chances to be rehabilitated, a goal that I find to be quite worthy of the Senate's consideration. The bill promotes the Boot Camp Program and improves prisoner literacy, both ideas that I support. I want to also commend my colleague from New Mexico, Senator BINGAMAN, for including his life skills amendment as part of this legislation. This amendment will go far to develop in prisoners the skills they will need to successfully re-enter society upon their release.

Mr. President, one amendment that I cosponsored will increase the resources to fight rural crime, a part of this country that we know has not been spared in the continuing crime epidemic. An amendment that I introduced requries the Justice Department to establish a program designed to help locate wandering Alzheimer's patients.

Many positive aspects, Mr. President, but one fatal flaw. When it comes to my vote—on this legislation or any other—the death penalty is fatal. This bill contains, and significantly expands, the death penalty. I shall, therefore, oppose this legislation.

My longstanding belief in the sanctity of human life is well known to most of my colleagues. To me, all life is sacred. the public, and especially those of us in the Federal Government, should do everything in our power to preserve human life. We should not be in the business of demolishing life. The death penalty, especially when compared to mandatory life imprisonment, is a worthless practice that continues to embarrass the United States on a global scale.

USE IMMUNITY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator RUDMAN be added as a cosponsor to amendment No. 460, which is at the desk.

Mr. President, for several days I have been waiting to offer an amendment, cosponsored by my distinguished friend from New Hampshire, Senator RUDMAN, dealing with the issue of the proper scope of use immunity. Some courts have taken an extremely broad interpretation of the Federal use immunity statute, 18 U.S.C. 6002, which threatens effectively to convert use immunity back into transactional immunity. This would put Congress and prosecutors in the position of having to choose between obtaining a critical witness' testimony and the opportunity to prosecute that individual for crimes he or she may have committed.

Unfortunately, Senator RUDMAN and I will not have the opportunity to offer this amendment on this bill. My good friend from Utah, Senator HATCH, I know has concerns about this amendment that he believes needs more study. At this point, I would like to ask my good friend, the chairman of the Judiciary Committee, whether—after this amendment is introduced as a bill—we could get prompt hearings on this bill and the opportunity to have it considered by the appropriate Judiciary Committee's subcommittee?

Mr. BIDEN. I would be pleased to accommodate my good friends from Connecticut and New Hampshire by holding hearings in the Judiciary Committee on their amendment, and to give them the opportunity to have it considered within the committee.

Mr. SASSER. Mr. President, the Senate is to be commended for its passage of this crime bill, the Violent Crime Control Act of 1991.

Our Nation's cities are currently experiencing a crime wave the likes of which this country has not seen in years. Day after day on the news and in the newspapers we see the savage and mindless violence that is spawned largely by the drug trade.

Vicious criminals are destroying our communities, they are destroying our families, and they are destroying our youth. The huge profits to be made in the drug trade are simply warping the values of many people. Parents, and community and religious leaders are

finding it impossible to steer our youth away from the glitter of the huge amounts of easy money available from the drug trade.

Mr. President, the way to stop crime is to catch and punish criminals. That is what our bill will do.

Our bill will also provide important new resources to our law enforcement agencies in their battle against crime. It increases funding for State and local law enforcement to $1 billion. The President's 1992 budget—unwisely I think—called for cuts in that funding. Unlike the President's bill, our bill provides funding for several thousand more police officers, FBI and DEA agents, and prosecutors.

I am particularly pleased that the bill contains the police corps proposal that Senator SPECTER and I introduced in the last Congress and which passed the Senate as part of last year's crime bill. Our legislation would establish a program similar to the Reserve Officers Training Corps. In return for scholarship assistance, a student would agree to serve 4 years in a State or local police force.

The police corps would provide our police increased manpower for foot patrols, for strike forces, and for working with community groups who wish to work with the police to break up criminal activity.

One of the greatest deterrents to crime is simply police presence on the streets and in our neighborhoods. It increases the risk factor for criminals. We need to increase the risk for the criminal so that if he commits a crime a patrolman will apprehend him, or a strike force will be operating on that block, or a citizen will promptly inform the police.

There is another benefit from our legislation that should not go unmentioned. Too few of our citizens understand the pressures and the dangers that our police officers face. When the graduates of the Police Corps Program complete their service they may go on to other careers.

However, they will know what it is to be a police officer. They will be able to share that knowledge with their neighbors. I firmly believe that this will increase respect and support for the brave men and women who put their lives on the line every day for all of us.

The bill also contains an important rural drug initiative. It provides $50 million to States like Tennessee to fight drugs in rural America and another $25 million for drug treatment and prevention in rural areas. It provides $1 million for training of officers from rural law jurisdictions. This section also creates a rural drug task force to coordinate antidrug efforts in rural America.

Those of us who represent large rural areas have been saying for some time that insufficient attention has been paid to the problems of rural drug enforcement. As drug enforcement has increased along the gulf coast in recent years, drug smugglers have moved inland.

For instance, my own State of Tennessee is easily within range of the aircraft commonly used by drug smugglers flying from South America. It contains many small, rural airports and airstrips that are particularly vulnerable to use by drug smugglers. Law enforcement officials in my State have identified several such airports which need additional surveillance.

State and local law enforcement agencies simply do not have the manpower to monitor these airports and airstrips on anything approaching a regular basis. The rural crime section of our bill will allow us to explore new ways to attack the special problems rural law enforcement agencies face.

So, Mr. President, I believe this bill contains important tools to improve our crime fighting efforts. I commend the chairman of the Judiciary Committee for bringing this bill to the floor. I urge our colleagues in the House to act expeditiously on this bill.

FUNDS FOR CAPITAL LITIGATION EFFORTS

Mr. HEFLIN. Mr. President, title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, lists 21 authorized program areas for which justice assistance grant funds may be used by the States. There is a need to authorize a 22d program area for which funds may be spent, and that is in the capital punishment area, particularly in post-conviction proceedings such as Federal habeas corpus.

Since 1988, Congress has appropriated, through the Administrative Office of Courts' budget, millions of dollars to fund capital representation resource centers which litigate against, recruit and organize litigation against, State death sentence judgments at the postconviction stage. These resource centers currently exist in 15 States and the Administrative Office of Courts estimates that they will exist in a total of 22 states by the end of fiscal year 1992. The Administrative Office of Courts has requested $13.4 million to fund these resource centers in fiscal year 1992. That money will fund a projected 230 employees, including attorneys, whose sole purpose is to litigate against State capital sentences being carried out. None of these staff or Federal moneys can be used to provide better defense at trial. It is all spent after the defendant is sentenced to death.

Of course, Mr. President, everyone agrees that those under sentence of death should receive competent and knowledgeble representation. However, it is important to note that congress has provided through separate provisions (in the Anti-Drug Abuse Act of 1988) for adequate compensation and expense reimbursement of attorneys appointed to represent State death sentence inmates in Federal habeas proceedings. The $13.4 million requested for capital resource centers in fiscal year 1992 is over and beyond that. Moreover, resources worth millions more are provided by large, civil law firms on a pro bono basis. As a result, the States in their efforts to have capital sentences upheld are badly outnumbered and outspent by the resources aligned against them. That is one of the principal reasons why State capital sentences are being delayed and obstructed through years of post-conviction litigation.

There are two possible solutions to this serious imbalance of resources. One is to delete the $13.4 million in funding for the resource centers. The other solution, and the one I favor is to provide evenhanded funding by authorizing the use of Justice assistance grant-money by the States in post-conviction capital punishment litigation. Such an authorization would permit the Justice Department to provide equal grant funds to the States where capital resource centers currently operate.

The vast majority of the American people support capital punishment as an available sentence option in aggravated murder cases. In light of that, Congress ought to at least be evenhanded in its supplemental funding of litigation involving capital punishment. It is unfair for Congress to tilt the scales against State capital sentences being carried out by providing millions of dollars to one side and not providing a penny to the other side. Under our adversary system, the capital punishment issue in each case is one that ought to be fought out in the courts, but the fight should be a fair one. Amending the Justice assistance grant provisions to authorize funding to offset the advantage that the anti-death-penalty side now has at the post-conviction stage would restore fairness and balance to the process. I urge that all members support this amendment.

THE DEATH PENALTY

Mr. LEVIN. Mr. President, in looking over the Biden-Thurmond dealth penalty amendment to this bill, a number of questions about the actual text come to mind, and I would appreciate if the chairman of the Judiciary Committee could clarify a few points.

In the discussion of mitigating factors, the amendment states that consideration shall also be given to "other factors in the defendant's backgound or character that mitigate against the imposition of the death sentence." May the defendant present evidence supporting other mitigating factors relating to the circumstances of the crime in addition to the ones specified in the statute?

Mr. BIDEN. Yes, the Constitution, as interpreted by the Supreme Court, so requires.

Mr. LEVIN. If the defendant can present evidence supporting other mitigating factors relating to the circumstances of the crime, can the defendant present evidence showing duress that is less than unusual and substantial? Can the defendant present evidence showing impaired capacity that is not significant? Can the defendant present evidence showing mental or emotional disturbance that is less than severe?

Mr. BIDEN. Yes, the Constitution, as interpreted by the Supreme Court, requires that the defendant be permitted to offer mitigating evidence. The bill does not purport to be exclusive on the question of mitigating factors.

Mr. LEVIN. With respect to the return of a finding concerning a sentence of death, it is clear in the amendment that the trier of fact, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence. Is that correct?

Mr. BIDEN. Yes.

Mr. LEVIN. With respect to aggravating factors, the jury "may consider whether any other aggravating factors exist? Can it consider any aggravating factors for which the Government has not given notice that it "proposes to prove as justifying a sentence of death?

Mr. BIDEN. No.

Mr. LEVIN. I thank the chairman of the committee for his time.

Mr. HARKIN. Mr. President, I rise in support of S. 1241, the Violent Crime Control Act of 1991. The Violent Crime Control Act will make a real impact on crime in our country by placing the emphasis where it is needed most: more and better law enforcement officers.

Violent crime, drug abuse, and drug trafficking plague rural America—not just our Nation's cities. That's the conclusion of a recent report of the Senate Judiciary Committee. It is a tragic reality faced daily by the people of Iowa and other rural States.

From 1989 to 1990, violent crime in Iowa increased by 6.5 percent, twice New York's rate. The report also found that 1 of every 10 hard core cocaine addicts live in rural areas in 1990.

The drug problem has reached epidemic proportions in rural America. This tragic conclusion echoes the findings of a GAO report on the rural drug crisis which Senators BAUCUS, PRYOR, and I commissioned last year.

In response to the GAO report and the Senate Judiciary Committee staff study, the violent crime bill tackles the problem of rural violent crime. The Rural Crime and Drug Control Act included in S. 1241 authorizes 350 more Drug Enforcement Agents for rural areas. I have worked for years to provide more DEA agents for Iowa, especially in the Sioux City area. The bill will also provide $50 million for State and local law enforcement grants in rural areas, and create rural drug enforcement task forces. These provisions will allow a coordinated effort to fight crime and drug abuse in rural America.

In contrast, the President's original crime initiative would have ignored the problem of rural violent crime and drug abuse. Unfortunately, the President's shortsightedness on rural crime is evident throughout his crime proposal.

The President says he's getting tough on criminals by imposing the death penalty and changing the rules for habeas corpus. That only makes it tough on the criminals already in jail. The way to get tough on criminals is to make sure we catch them in the first place. The Violent Crime Control Act will help achieve that, by providing resources to States to fight crime before it occurs. If the President had his way, we would actually reduce Federal assistance to States to fight crime. The President talks tough, but he does not match his rhetoric with the resources needed to fight crime.

Specifically, the Violent Crime Control Act authorizes $1 billion to aid States in fighting crime. Local law enforcement agencies—city police, county sheriffs, and State patrol officers—do most of the work in this country to stop violent crime and apprehend criminals. They are on the front lines of the war against crime, and they should get the funds they need to win the battle.

Unfortunately, the administration does not understand that. Instead of helping local law enforcement, the President's budget would slash $100 million from Federal assistance to local law enforcement.

The Violent Crime Control Act also provides incentives to bring in a new generation of dedicated law enforcement officers. Law enforcement is an increasing complex field, and we need to recruit highly qualified men and women for the job. The Violent Crime Control Act will establish a Police Corps to provide college scholarships to help students pursue law enforcement careers, modeled on the Reserve Officers Training Corps. This program will turn out professional police officers to fight crime into the next century.

The President's package does not include any provision to help recruit, train and retain new crime fighters.

Finally, the Violent Crime Control Act will fight crime by taking guns out of the hands of criminals. It incorporates two important provisions: A ban on the manufacture and assembly of domestic assault weapons, and a waiting period for handgun purchasers.

The President's bill would ban foreign-made assault weapons, but not domestic assault weapons. We need to get assault weapons out of the hands of drug dealers, whether they're made at home or abroad.

The waiting period provisions included in S. 1241 is an improvement on the original Brady bill, and incorporates some provisions of the Staggers amendment which failed in the other body. Some complained that the original Brady bill would not require the police to conduct a criminal records check. The final version of the Brady bill would require police to conduct a background check, and provide incentives to improve criminal records, a necessary first step to develop a nationwide instant check system.

The waiting period provisions would not affect gun buyers in Iowa, which already requires a 3-day background check. However, the waiting period in this bill provides a consistent, nationwide policy which will prevent felons from buying guns in States without a background check and bringing them to the State which do have checks.

I do not suggest that this is a perfect bill, or that I agree with all of its provisions. Both the President's bill and the Violent Crime Control Act would impose the death penalty on criminals under Federal law. I have long opposed the death penalty. I am disappointed that the Senate stripped the Racial Justice Act from the bill, which would have prevented the imposition of the death penalty in a racially discriminatory manner. A study by Prof. David Baldus of the University of Iowa of over 2,500 homicide cases in Georgia which controlled for 230 nonracial factors demonstrated that the death penalty is imposed 4.3 times as often on those who kill whites than those who kills blacks. We must ensure that racial bias plays no role in criminal sentencing, especially in the imposition of the death penalty.

I am also concerned about the impact on individual rights and liberties of the President's habeas corpus reform provisions included in the final bill. These provisions could have a profound impact on the rights of Americans.

However, on each of these objectionable provisions, the majority of the Senate has spoken. It is not an easy decision for me to vote in favor of a bill which would allow the death penalty, or reduce to protections against injustice for Americans. However, even with these provisions, I believe the benefits of this legislation outweigh the cost. The desperate need for better crime control in this country demands action now.

While I reservations about some of the provisions of the Violent Crime Control Act, Mr. President, I believe that it makes an important contribution to crime control. This bill is anticrime, and propolice.

Mr. PELL. Mr. President, today, after much deliberation and compromise, the Senate has finally reached agreement on the contents of the crime bill of 1991—a package of legislation designed to address the escalating levels of crime in this country.

The crime bill contains both desirable and undesirable features. Fore-

most among the positive positions are those relating to gun control. I believe that the compromise reached in this bill regarding the Brady bill providing for a 7-day waiting period and the provision for the future implementation of background checks is an important step forward in the effort to curb the violent crime caused by guns. I also point to the provisions banning assault weapons as further positive steps in this regard.

I am also pleased that this bill provides greater financial assistance to State and local police forces so that those brave souls on the frontlines will have the resources they need to fight the crime on their streets.

In addition, I am happy that this bill contains an amendment of mine which relates to the addition of felony drunk driving to the list of those crimes which are grounds for deportation for resident aliens. This substance of this amendment was first brought to my attention by the Mothers Against Drunk Driving and I am pleased that the Senate has acted to include this important crime provision in this crime package.

I am also pleased about what has been eliminated from the President's version of this bill including the narrowing of the exclusionary rule and the creation of a secret star chamber operating under unconstitutional procedures regarding the deportation of individuals accused of being alien terrorists. These were serious intrusions upon constitutionally protected liberties and I am happy to see that the Senate has seen fit to reject them.

There are, however, very serious deficiencies in the bill as well. I am most disturbed by the drastic expansion of the application of the death penalty. I personally am opposed to the death penalty. I recall that the last person to be executed in my home State of Rhode Island under the death penalty was later proved innocent. This bill provides for an unprecedented application of the Federal death penalty—more than 60 offenses, some of which do not even involve murder. I cannot help but be disturbed by this trend in capital punishment.

I am also distrubed by the virtual elimination of any meaningful recourse to individuals under the writ of habeas corpus. To retreat to a Supreme Court standard of 85 years ago seems unwise and dangerous. In addition, the elimination of the Racial Justice Act portions of the original bill is troubling in that without an effective writ of habeas corpus, racial discrimination in sentencing may not be addressed.

It is clear that this bill is not a perfect piece of legislation. Nevertheless, on balance, I believe that the pros outweigh the cons. The need for tougher law enforcement, the need for national gun control, and the need for Congress to send a stern message to those on the streets that crime will not pay are all addressed, albeit imperfectly, by this legislation. Accordingly, I choose to support its passage and look forward to seeing the results it produces in helping wage the war on crime in America.

Mr. GLENN. Mr. President, I rise today to express my support for S. 1241, the Violent Crime Control Act of 1991.

While I am not pleased with all of the amendments which are now included in the bill, I feel that the bill has a number of positive features. I am hopeful that the shortcomings can be improved in the conference committee.

Mr. President, I recognize that these are violent times in which we are living. The Cleveland Plain Dealer recently reported the death of an innocent bystander in a drive-by shooting. Just recently, a young mother was shot and killed after having been caught in the crossfire of gang violence while driving down a major thoroughfare in the Nation's Capital. This is a time when we need to get tough on crime.

S. 1241 is not a panacea. It will not cure America of all the crime which ails her. However, S. 1241 will help to fight crime in America. It will not be a final solution; we have to keep working on that.

This crime bill has a number of provisions which I feel will help curb the violence which has overtaken our streets and neighborhoods. To begin with, the bill authorizes $1 billion in aid to State and local law enforcement agencies for use in combating crime. I am not one who enjoys throwing Federal tax dollars around for frivilous uses, and if I did not feel this measure contained some effective provisions for fighting crime, I would oppose the measure just on the amount of money authorized.

However, the kinds of anticrime programs we need and the kind that are authorized in this bill warrant expenditure of public funds. For example, the bill authorizes more police officers to get the criminals off the streets, more prosecutors to bring them to justice, and more prisons in which to house them.

I might add here that the bill now includes an amendment I proposed which would direct the Bureau of Prisons to study the cost effectiveness of alternative methods of prison housing. Modular buildings and military-style housing such as Quonset huts would be effective. What I hope to achieve through this amendment is to provide ample prison housing for criminals who might otherwise receive lesser sentences, without breaking the backs of the taxpayers who have to pay for such housing.

While alternative housing might not be appropriate for maximum security inmates, I believe it will provide an excellent cost-effective housing alternative for minimum and medium security prisoners.

Mr. President, S. 1241 contains some much needed gun control amendments. One such amendment bans the manufacture and assembly of 14 domestic assault weapons which have as their only function that of killing people. I support this provision, and am pleased that it was not removed from the bill.

The bill also addresses the problem of handguns, imposing a 5-day waiting period before a person is allowed to purchase such a weapon. During that 5-day period, the local police force is required to conduct a background check to ensure the eligibility of the potential purchaser's right to purchase a handgun. Again, this provision will not end all deaths from handgun violence, but it's a start. If it saves just one life, then it is worth the effort.

S. 1241 provides $100 million to combat juvenile gangs and drug abuse among youths, and increases penalties for most serious offenses. Whether we like to face this somber fact or not, crime among youth is so rampant that more teenagers today are affected in some way by youth violence than are not. Youth in America have gone from fist fights to full-fledged shoot-outs with uzis. They have gone from smoking cigarettes to smoking crack. It is time that we take a stand in curbing youth violence and drug abuse.

As I said before, I am not pleased with all of the provisions of this bill. I am greatly concerned about the death penalty provisions authorized in the bill. I am even more concerned that the Racial Justice Act, which I have consistently supported, was eliminated from the bill.

Mr. President, I have been criticized for my stand against the death penalty, but I stand firmly by that position. It is not that I believe there is no crime which is so henious that the death penalty is warranted. I think to the contrary, that there are indeed crimes which are so henious, as well as murderers who are so incorrigible, that, as abhorrent as it is, perhaps the death penalty is the only solution.

In addition to my questions about the deterrent value, my concern with the death penalty, Mr. President, is the very real possibility of mistake. I have read statistics which state that, in this century in the United States, there have been more than 350 cases where innocent persons were convicted of capital or potentially capital offenses. In 139 of the cases, an innocent person was actually sentenced to death.

In 116 of those cases, the mistake was revealed; however, the mistake was not revealed until after years of waiting. Now, waiting on death's row, as we know, is generally accomplished by the accused filing successive petitions to the court for a writ of habeas corpus.

S. 1241, as amended, makes onerous changes in the writ of habeas corpus, by which a prisoner challenges the unlawfulness of his or her confinement. S. 1241, as written would have limited habeas corpus review to one petition. The

bill, as amended however, effectively eliminates federal court review of alleged constitutional violations in State capital cases, stripping the federal courts of their power to protect individual rights.

In addition, reports have shown a history of racial disparity in capital sentencing. The death penalty has been shown to be racist and biased in its application. Given this, I cannot understand the reluctance of Congress to pass the Racial Justice Act which protects against racially discriminatory sentencing in capital crimes. I have serious concerns with a system which condones racism in the name of justice.

Moreover, S. 1241, as amended, federalizes all violent crimes involving the use of firearms, effectively imposing the death penalty in all gun-related homicides. If Congress is going to expand the categories of potentially capital crimes, then Congress must address the issue of racially discriminatory sentencing.

Mr. President, all of these concerns notwithstanding, I am prepared to vote for S. 1241 for the reasons which I have stated. I am hopeful that the ultimate implementation of this measure will have a positive impact in our battle against crime.

IN OPPOSITION TO CRIME BILL PASSAGE

Mr. CRANSTON. Mr. President, as much as anyone else I would like to support this crime bill in which the distinguished managers have invested so much time and energy. Some of the bill's accomplishments—the Drug Emergency Areas Act, the Mitchell-Dole gun control compromise, and increased funding for law enforcement, for example—would be valuable additions to our anti-crime efforts. The Drug Emergency Areas Act, similar to the high-intensity drug trafficking legislation I introduced last Congress, would provide money for supply and demand anti-drug efforts in cities of all sizes. The Mitchell-Dole gun compromise assists States in creating a computerized criminal history check for purchasers of handguns while allowing each State to retain or institute its own waiting period. And the increased enforcement funding would augment many of our existing anti-crime efforts as well as fund novel efforts such as the Police Corps.

Nonetheless, Mr. President, my longtime opposition to the death penalty and my astonishment at the gutting of the great writ habeas corpus compel me to oppose final passage of this bill. This crime bill, by increasing the number of offenses punishable by death and by weakening the means by which we force the States to adhere to the constitutional standards for the imposition of the death penalty, would increase the frequency and likelihood of executions and simultaneously decrease our certainty that constitutional errors were not made. By adopting these habeas reforms, the proponents have relegated constitutional errors to the realm of mere technicalities, despite the irrevocable nature of such errors. When lives are at stake, Mr. President, how can a constitutional error be a harmless error? The only accomplishment of this reform is to ensure that the poor, for whom the death penalty seems exclusively reserved and who so often receive incompetent trial level representation, will face a judicial system unable and unwilling to judge their cases fairly. If we remember that in capital cases the crucial question is often not whether the prisoner committed the offense charged but whether the death sentence is constitutionally imposed, this habeas reform reveals itself as even more lethal than the usual arbitrariness inherent in our death penalty process. With the Federal courts precluded from effective review of capital cases, we will have turned the maxim "justice is blind" on its head.

Mr. President, this crime bill will pass. I will vote against final passage. I am guided in my opposition by the belief that constitutional errors are never mere technicalities and that the great writ of habeas corpus is at the cornerstone of our democracy. I am guided by my belief that we cannot build our way out of crime with more prisons nor can we kill our way to a more peaceful society. The key to crime control—and we all know it—rests in stable families where children are raised with a stake in society and a vision of their inclusion in it. This crime bill, well-intentioned though it may be, purports to establish a tough stance but actually proceeds along the road of expediency. At its best it simply provides more of the same with marginal benefits. At its worst it's a step backward from fair play and justice. I urge my colleagues to oppose this bill.

Mr. GRASSLEY. Mr. President, I lend my support to this crime bill, but with reservations. The bill has some good features, but it has some that are not so good, in my view.

We were able to achieve some of the reforms the President has sought in his crime package. First, we improved the habeas corpus procedures. Currently, a State prisoner can relitigate virtually every aspect of his or her confinement, from pretrial through postconviction proceedings. And a State prisoner can mount an unlimited number of challenges. Especially in capital causes, the present habeas system undermines the effectiveness of the death penalty, both as a deterrent and an expression of the public's moral outrage concerning the most heinous crimes.

The habeas provision we have included in the bill makes significant changes. It limits the number of appeals to Federal court. It accords deference to the State courts and minimizes Federal interference with State proceedings. And, it allows recent Supreme Court decisions in the area of habeas to stand, clarifying the complex area of retroactivity.

Some of my colleagues argue that this habeas provision does nothing to curb crime, since it deals with procedures once the person is convicted and already in prison. But habeas reform is critical to our efforts to fight crime. Current habeas procedures drain the resources of our judiciary. Judges who must deal with the same cases repeatedly, cannot take up new cases, causing unnecessary delay. Court dockets are overcrowded with the same cases, time and again. It is time to recognize the fairness and finality of State court decisions. This habeas provision does just that.

Second, Mr. President, the bill strengthens capital punishment and allows for the enforcement and application of the death penalty. The death penalty expresses society's sense of justice—the most serious of crimes should receive the most serious of punishments. And, the provisions in this bill will allow for the imposition of the death penalty.

But this crime bill is not perfect. We could have done better. For example, we could have tightened the procedural loopholes created by the exclusionary rule. We did not go as far as we should have. We have codified a good-faith exception to the exclusionary rule in those cases where the police had a warrant they believed to be valid. But this is already the law of the land under the Supreme Court's 1984 decision in the Leon case. We needed to go further, as the President's bill provided, to allow the admission of evidence seized in good faith whether or not the police have a warrant.

And, Mr. President, I am not satisfied with the gun provision contained in this bill. During the debate on the so-called Brady bill I stated my views on this issue. A waiting period only penalizes law abiding citizens who want and have a right to own guns. Criminals do not buy their guns in stores; they will not be affected by this waiting period.

I have thought about my vote on this bill, and balancing all the provisions, I find the bill worth supporting on final passage. It contains some other provisions that are important, including my amendment allowing the introduction of a victim impact statement in a death penalty case. And it has some provisions aimed at rural crime, which may help my State of Iowa as we address the particular problems of rural crime.

We are not done with the crime issue. This bill will not solve all of our problems. But it makes some important starts.

The conference committee should not weaken this bill or I may vote against the conference report.

Mr. NICKLES. Mr. President, I rise today in support of the anticrime legislation currently before the Senate. I think the Senate has put together a good package with many effective anticrime provisions which will assist our police officers and other law enforcement officials in fighting crime on our streets. There are a couple of provisions I would have liked to have included in the bill which did not get included—for example, exclusionary rule reform. And, there are provisions in the bill which I do not support. But overall, I think this is a solid piece of legislation which will positively affect anticrime efforts and the criminal justice system.

Perhaps the most important provision included in this year's crime bill is the Crime Victims Restitution Act which I introduced as an amendment to last year's crime bill. The losses suffered by innocent crime victims are very real, yet it is rare that we hold a criminal fully accountable for the harm he has caused. This provision would require all persons convicted of Federal crimes to pay full restitution to their victims. This is a very tough but very important provision. It says that criminals will be held directly responsible for their actions and will pay for the harm they have caused their innocent victim. This amendment passed both the House and the Senate last year, but was dropped in conference. I am pleased the chairman of the Judiciary Committee has included my language in this year's bill.

Another important addition to this year's bill is the Grassley/Nickles victim impact statement amendment. All too often, victims of crime are lost in the shuffle of the judicial process. This amendment will ensure innocent victims a voice in the sentencing phase of their attacker's trial. I am pleased the Senate has recognized the importance of passing legislation to protect the rights and needs of crime victims.

I also strongly support habeas corpus reform. By allowing death row inmates to extend their stays on death row virtually indefinitely, the deterrent effect of that penalty is eroded. In Oklahoma, we have over 100 people on death row. Many of them have been there for a decade. Several of them have filed multiple Federal habeas appeals after appealing through the State judicial system. Last year in Oklahoma, the first death row inmate in 24 years was executed. Charles Troy Coleman entered death row in 1979 after killing a couple during a robbery—it took 11 years to carry out his sentence. Shortly after Coleman was sentenced to death, Roger Dale Stafford joined him on death row. Stafford had been convicted of nine counts of murder. Five of his victims were teenagers. He is still on death row and probably will not face execution until 1993.

Mr. President, this is not justice. This is delay. I am pleased the Senate acted in support of the President's habeas corpus reform provision. This provision, as offered by Senator HATCH and Senator THURMOND, will help ensure the appeals process cannot be dragged out endlessly.

Finally, I strongly support the restoration of the Federal death penalty and increasing minimum mandatory sentences for using a firearm during the commission of a crime. Studies have shown that swift and certain punishment is a true deterrent to crime. By establishing stiff penalties for violent crimes and streamlining the sentencing and appeals process, criminals will learn that they will be held accountable for their actions and they will be punished. Only in this way can we hope to stem the rapid increases in the Nation's crime rate.

As positive as these provisions are, there are a few glaring omissions in the crime bill we will be enacting this year. Of particular note is a provision included in the Thurmond crime bill, which I cosponsored. I supported the Thurmond bill because I firmly believe it was the tough anticrime and anticriminal bill this country needs. For example, the bill would have codified a "good faith" exception to the exclusionary rule. There are many impediments to efficient and effective law enforcement currently facing our Nation's police officers. It is essential that we allow police officers to do their jobs without handcuffing them. By not allowing this good faith evidence in court, criminals are getting let off the hook for criminal activity.

In my State of Oklahoma, there was a case which illustrates exactly what the Thurmond bill was trying to correct. After learning that a suspect they were watching was driving a car with a stolen license plate, three Oklahoma City police officers moved in to arrest the suspect. After securing the offender, the officers entered his hotel room to locate his companion. In the room, the officers discovered marijuana and drug paraphernalia in plain sight around the room. The officers opened a dresser drawer and found two closed bags containing $60,000 worth of cocaine.

This search and seizure was conducted without obtaining a search warrant, but the officers clearly acted in good faith. In fact, the district court judge ruled that the exclusionary rule would not apply against the cocaine evidence and he allowed it. Unfortunately, this ruling was overturned at the appeals court level.

The Thurmond language would have ensured that this type of good faith evidence would not be excluded from court. Had this language been in effect, this criminal would be serving time for possession of cocaine with intent to distribute. I think it is vital to include evidence like this in court proceedings and I supported the Thurmond amendment's effort to codify the good faith exception to the exclusionary rule. I am disappointed this amendment was rejected.

Mr. President, I am also disappointed the Senate rejected the Stevens amendment addressing gun control. The Stevens amendment would have phased in an instant check on handgun purchases over 2 years. I favor this provision over the 7-day waiting period included in the so-called Brady bill and over the compromise 5-day waiting period we passed before the recess. It has long been my contention that the only people who would be affected by waiting periods would be innocent gunowners. The Dole-Metzenbaum amendment creates a bureaucratic nightmare for States and the Department of Justice in attempting to set up a nationwide background check system.

While I am at least encouraged at the plan to work toward an instant background check across the Nation, I must still oppose this provision for the waiting period it imposes in the meantime. Mr. President, this waiting period will not affect criminals. Criminals do not buy firearms in stores—they buy them illegally on the streets. I think it is unfortunate to include gun control provisions which are so contentious and which have little affect on would-be criminals in this crime package.

Again, Mr. President, I support tough legislation which will ensure the efficient and effective implementation of justice. I am disappointed the Senate refused an attempt to increase the effectiveness of our Nation's law enforcement officer by codifying an exception to the exclusionary rule, but I applaud the positive changes made to ensure swift and certain punishment for criminals and increased rights and recognition for innocent victims.

Mr. DURENBERGER. Mr. President, I rise today to explain the reasons that I am voting against final passage of S. 1241, the Violent Crime Control Act of 1991.

It is difficult for a Member of this body to vote against a bill that, as its title indicates, is intended to control violent crime. Our constituents have expressed outrage at the growing problem of violent crime in America, and with good reason.

Nine days after the Persian Gulf War ended, our President challenged us to pass a crime bill within 100 days; 127 days have now passed since that challenge, and I had hoped that we could present the President and the American people with a bill that would fight crime as effectively as our brave men and women fought Saddam Hussein's forces in the Gulf. The bill that is before us unfortunately falls short of that goal.

We have debated several important and controversial issues on this bill. On

the issue of gun control, we struggled to come up with a compromise on the Brady bill that will facilitate the development of a national criminal identification system that should make it more difficult for convicted felons and other dangerous individuals to obtain handguns through licensed gun dealers.

After days of debate, we adopted a bipartisan compromise that will create a 5-day waiting period before a handgun can be purchased. Although there was wide disagreement in this body on the usefulness of waiting periods, this Dole-Metzenbaum proposal was the best compromise we were able to reach that would move us toward the common goal of a national computerized instant background check.

I am pleased that the Senate adopted an amendment of mine to S. 1241 that was based on a freestanding bill I introduced earlier this year—legislation that I have named the Jacob Wetterling bill.

On October 22, 1989, in my home community of St. Joseph, MN, 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, although we are all praying for the day that Jacob will return home to his family safely.

If local and State police had been aware of the presence of any convicted sex offenders in the area, it would have been of invaluable assistance during those first critical hours of investigation. My amendment would provide law enforcement officials with this tool, by requiring 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.

My amendment was adopted by unanimous consent, and I am glad that this amendment was placed on a vehicle that seems to be destined for easy passage. I am certain that there are other provisions of this bill that will also have a positive impact on the problem of crime. But this bill falls short in one very important respect.

Mr. President, it has been said that for every complex problem there is a solution which is simple, direct, and wrong. On the matter of violent crime in America and in this bill, that solution is the death penalty. S. 1241 treats the death penalty as the panacea for deterring crime. As a matter of both personal conviction and public policy, I believe that is very wrong.

When we first began consideration of this bill, S. 1241 contained almost 50 crimes that would now be subject to a Federal death penalty. In a series of amendments, there have been so many expansions of the application of the death penalty that many of us have lost track of the total. In this bill, we have not simply established death penalty procedures for Federal crimes, but we have federalized gun-related homicides. We have established a death penalty in the District of Columbia. We have provided for a death penalty for being a drug kingpin, regardless of whether a murder is committed.

The death penalty is supported by the public to prevent murderers from reentering society. When the option of a life sentence without possibility for parole is mentioned, public support for the death penalty erodes. I voted for an amendment that would have substituted the death penalty provisions in S. 1241 with a life sentence without parole. Unfortunately, this proposal failed.

Mr. President, there is no empirical evidence that the death penalty is an effective deterrent to violent crime; in fact, studies by the American Sociological Review and the FBI have suggested the opposite. The execution of criminals also does not erase the pain and grief of victims' families.

The vast majority of the free world has rejected the death penalty, while the United States is in the company of the more intolerant and backward regimes of the world in its use of capital punishment. The United States' standing as a proponent of human rights around the world is undermined because we continue to impose the death penalty.

Violent criminals must be apprehended and punished. No matter how we choose to dress them up, the death penalty provisions in this bill are not about deterrence, they are about vengeance. That is an appetite which is unbecoming of a civilized nation and one which we will never be able to satisfy.

To represent to the American people that we have done something about crime on the basis of an expanded death penalty is simply untrue. Perhaps this is an occasion in which we need to be more honest with the American people than they want us to be.

For these reasons, Mr. President, I cannot in good conscience support S. 1241.

Mr. President, I doubt that the solution to violent crime in America will be found in either Chamber of this Congress. We have passed comprehensive crime packages in 1984, 1986, 1988, 1990, and we are trying again in 1991. The Congress can impose stricter penalties for crimes and throw greater resources toward prisons and local law enforcement. But that does not attack the root of the problem.

Our Nation must be willing to fight crime through education, and through addressing a variety of social and economic problems in our families and neighborhoods. Communities across this Nation have to watch out for their neighbors, and especially their neighbors' kids. We cannot legislate that sense of responsibility or community in this Chamber.

Mr. President, I will vote against the crime bill that is before us today. I will continue to be tough on crime and support State and local law enforcement. But I also intend to fight the conditions that perpetuate the cycle of violent crime, and I encourage my colleagues to do the same.

Mr. LEVIN. Mr. President, the war for safe streets and safe communities is raging in America and it is deadly. More Americans have died from guns in our communties in the last 10 years than died in the Korean and Vietnam wars combined. Last year, our Nation experienced more murders, rapes, and violent crimes than ever before. In Michigan alone, almost 1,000 people were murdered, 7,000 women raped, and more than 42,000 people assaulted.

It is not just an urban problem, it is a rural and suburban problem, a problem in every community. I have spent a lot of time with the police and sheriffs all over Michigan finding out what they need. They have told me we can win this war by providing them with effective laws and the tools to enforce them. That is the way to help prevent crimes and to make sure that when they occur, punishment is both swift and certain. That is how you start to spell relief for our communities.

We need to give our crime-fighting troops at home the same kind of support we gave our troops in the gulf. Local law enforcement have told us what they need: The resources to put them on the streets where they are needed, laws to punish criminals and ensure police are not outgunned, and enough prisons and boot camps to put criminals away.

Sentor BIDEN's Violent Crime Control Act provides local law enforcement with some of the financial support they need and deserve. It will put thousands more police officers on the streets.

President Bush, on the other hand, proposed cutting Federal assistance in his budget. At the same time that the President's requesting increases for Star Wars, he wants to cut out No. 1 weapon at home: Local law enforcement. That is not what the American people want and it is wrong.

Not only will the assistance provided by this bill help hire thousands more police and prosecutors, it will enable more law enforcement officers to reach out to children before they turn to crime and drugs. Through innovative programs such as DARE [Drug Abuse Resistance Education], police officers across the Nation have helped kids say "no" to drugs, and have helped build a healthy relationship between kids and police.

This legislation also builds upon a law we passed last year, which I sponsored along with Senator COATS, to provide assistance to State boot camp

prisons, tough and intensive camps that provide a cost-effective alternative to traditional prisons. Michigan has been at the forefront of the boot camp movement.

The legislation before us would build on this success by providing for the conversion of closed military bases to boot camps that will accept both Federal and State prisoners. The bill includes an amendment I offered earlier to expand the number of individuals who would be eligible for boot camp and to give greater recognition to the experience of States like Michigtan who have years of experience in running boot camps. The bill would also create 10 new regional prisons to further ensure that criminals do not escape punishment because of lack of prison space.

The Biden crime bill also contains provisions to help stem the rising gun violence. Male teens in America are now more likely to die from a bullet than from a disease.

This bill would help change this. It would help get semi-automatic assault weapons out of the hands of criminals. It increases the penalties for firearms crimes, and it bans the nine assault weapons which are most often used to commit crimes and which have no sporting purpose. The police who have to face these weapons on our streets have asked for this law, and they deserve it. We cannot let criminals win an arms race with our local police.

This bill will also help keep handguns out of the hands of felons. It includes both a national waiting period for the purchase of handguns and mandatory criminal background checks for all gun buyers. It is a commonsense measure to keep criminals from buying handguns. In States with waiting periods, thousands of criminals have been prevented from buying handguns. Law enforcement have made it clear that it is not enough to have a law that prohibits criminals from buying handguns if they have no way of enforcing it. This legislation does just that by requiring a national waiting period until States can conduct instant criminal background checks.

Recently I got a letter from a constituent who told me that he was a gun dealer, NRA member, and sportsman, and that he supported the handgun and assault weapons bills. He told me to "be strong on the part of this legislation that deals with these crazy Rambo Street Sweepers! There is no purpose for these except to kill or intimidate people."

Police in Michigan and across the Nation have made it clear that if we want to do something about crime in our country, we have to pass a handgun waiting period, stop the proliferation of assault weapons, built boot camps, and provide local law enforcement the assistance they need. This bill does all this.

It also contains some provisions which we do not need and which I do not support. The bill's current habeas corpus provisions, as amended by Senator HATCH, assault the Bill of Rights, not crime.

The basic premise of habeas corpus review is simple. Federal courts are responsible for interpreting the Constitution and making sure that criminal trials in State courts conform to the Bill of Rights.

This bill attacks this premise. It would prevent Federal judges from reviewing a case even when the State court's decision was clearly wrong. And these are not just frivolous petitions—over the last decade, Federal courts granted habeas petitions in about 40 percent of the capital cases that they reviewed.

Supporters of these changes say that the status quo is insulting to the State courts, that the Federal courts are too crowded, that it takes too long to execute people. My response is that there are some things worth taking time and trouble over. Our constitutional rights are worth taking time and trouble over.

I am not saying there is no room for reform. There is, and Senator BIDEN's proposals would respresent a significant improvement over current practice. His proposal carefully balances fairness and finality. The Hatch provisions now in this bill exalt finality over fairness. They are more concerned with speed and efficiency than protecting people's rights.

This bill also greatly expands the number of crimes for which the death penalty can be imposed, including crimes in which no death has actually occurred. Since the imposition of the death penalty carries with it the possibility of uncorrectable mistakes being made in sentencing, the increase in the number of crimes for which the death penalty can be imposed spreads the net of irreversible error yet further.

In addition, the procedural protections accorded in this bill are weaker than those which were enacted in 1988 as part of the death penalty for drug kingpins. For example, that legislation provides that "the jury or the court, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall so be instructed."

This year's committee bill contained the same requirement that the jury be instructed that it is never required to impose a death penalty. However, the Biden-Thurmond amendment which was adopted on the Senate floor removed this requirement that the jury be so instructed. Why, I ask, if it is important enough to be clear in the statute itself about this role of the jury, is it not important enough for it to be required as part of the instructions to the jury? What purpose is served by keeping the jury uninformed about its full range of options?

I support a mandatory life sentence without the possibility of release for persons convicted of the most serious crimes. However, under this bill, for example, a terrorist murderer could receive a sentence less than life.

There is much good and much bad in this bill. I vote for it because I believe it will be improved by the House and in conference. If that prediction is erroneous, I could not support it on final passage of the conference report.

Mr. WOFFORD. Mr. President, I am glad that we will finally have the opportunity to vote on the crime bill. Our families deserve the protection that this legislation will give them, and our law enforcement officers deserve the extra financial support and legal muscle it will provide. I want to commend the distinguished floor managers for their tireless efforts. I know it has been a challenging effort and I am proud to have contributed to it.

As USA Today reported on Wednesday, a new national survey shows that the people of this country believe that environmental damage is the worst crime businesses can commit. And three out of four consumers said top executives should be held personally liable for environmental crimes. In Pennsylvania, concerns about damage to public health and safety run especially deep. And I want to thank my colleagues for voicing their support for my environmental audit amendment.

Polluting our natural environment—like drug violence on our streets—robs our children of their future. We ought to treat serious, long-term damage to the air we breathe, the water we drink and the land we live on just like other major crimes against society. Those who poison our children and pollute our environment ought to be in prison stripes, not pinstripes. So I look forward to working with you on the bill I plan to introduce to sharply increase the criminal penalties for those who do violence to our natural environment.

One part of this crime bill which I'm especially enthusiastic about is the added support for State and local police forces. These funds—more than double the amount allocated in fiscal year 1991—will help to expand a variety of innovative and practical anticrime programs in Pennsylvania, especially in the area of drugs and drug-related crime.

Our State has shown tremendous leadership in grassroots antidrug efforts. PENNFREE, Pennsylvania's comprehensive antidrug program, was established in 1989 to attack the drug crisis on every front. The program has provided record levels of State support for State police, local police, and prosecutors. It has revamped correctional and probation antidrug programs. And it has vastly expanded education and prevention, to break the cycle of crime

and dependency that drugs spawn from generation to generation. This crime bill makes the Federal Government a full partner in supporting these efforts.

In Pennsylvania, families and neighborhoods have banded together to take back their streets. Last month, I marched with one group in Lancaster called DADDS [Demonstrate Against Drug Dealers] in one of their weekly antidrug marches. I know when many people in this Chamber and around this country think of a place like Lancaster, they think of rolling farmland and Amish buggies. But drugs and crime know no boundaries. The challenge is not only in blighted inner-cities, but also in well-to-do suburbs and quiet rural towns.

And in each of these communities, citizens groups are taking aggressive—and effective—steps to combat drugs: We have the Coalition Against Substance Abuse in Pittsburgh; STING Out Drugs, another Lancaster group; MANTUA Against Drugs and 60 other neighborhood groups like it in Philadelphia with whom I have stood in late-night vigils; local police-led groups in Williamsport; and antidrug groups organized by church congregations in York and Harrisburg. Groups like these, fueled by the power of active citizens, are leading the way toward the goal of a drug-free society. They are sending drug criminals a strong message, a message that says that the law-abiding families of our Nation will no longer be held hostage in their own homes by drug crime. They are ready to fight back.

These community groups, and others like them across the Nation, will draw new strength and new support from the "Safe Streets" provision in the crime bill. Its new investment in State and local law enforcement will give our police the resources to further galvanize the efforts of local groups working to stop crime in our streets and drugs in our communities. Our police are fighting a criminal epidemic of massive proportions. Too, often they are outgunned and out-manned. We owe them this support.

We all know that drugs are a principal factor in the record levels of crime our country suffers evey year. Pennsylvania, its citizens, and its law enforcement community have shown their commitment to fighting this deadly epidemic. Now, by passing this crime bill, we can show our States that we are willing to give them the resources that will let them meet the challenge squarely.

While we continue to find effective ways to fight crime in our streets, we also have to deter criminals by showing them that they will face harsh and certain punishment if they choose to commit crime. This provision is important because it expands Federal criminal jurisdiction to punish gun murderers. The availability of the death penalty as a sanction for these crimes will provide a deterrent to those who might otherwise kill with guns.

Clearly, more of a deterrent is necessary. Nineteen-ninety was the deadliest year in American history, There were over 23,000 murders in this country, an increase of almost 2,500 since 1988.

To put that level of violence in some perspective, consider that in the last 3 years more Americans have been murdered in our communities than were killed in the four wars combined—more than in the jungles of Vietnam, on the beaches of Grenada, the streets of Panama, and the sands of the Persian Gulf.

And the number of robberies, rapes, and assaults have climbed in each of the past 3 years to new all-time highs.

Franklin Roosevelt once spoke of "the four freedoms." One was the freedom from fear. A free society cannot exist where families are afraid in their own homes. The fear of crime eats away at the quality of life for families all across this country. The first thing our Government must do is to make sure our people are not afraid. To protect our children. To safeguard our streets. And to make our communities the kind of places where we can raise families and build lives filled with hope and opportunity instead of fear and violence.

This crime bill moves us another step toward that goal and I am proud to support it.

Mr. BRADLEY. Mr. President, I hope that later today the Senate will pass this important legislation. The bill now before us takes several important steps to reduce the incidence of crime in America. Tougher laws, expanded law enforcement, streamlined court proceedings. The bill also contains several important initiatives that I believe will help take a bite out of crime.

I am pleased that the legislation before us includes the provisions of the Drug Emergency Area Act. I am a cosponsor of this important legislation, which will provide $300 million in aid to areas particularly hard hit by drug abuse. The bill provides funding to localities for more police officers on the streets to cut the supply of drugs as well as more education and prevention programs in our schools and communities to reduce the demand for drugs.

Mr. President, this year, $80 million in Federal funding has been provided to expand law enforcement efforts in areas designated by the President as high intensity drug trafficking areas. The New York metropolitan area is one of the areas receiving extra support, which will be used for the purchase of sophisticated interdiction and detection equipment and devices as well as extra law enforcement efforts aimed at housing projects and drug gangs.

This legislation goes much further. Localities hardest hit by the drug problem need more than extra Federal agents and hardware. They need a larger police presence on the streets to protect their citizens—to discourage crimes from being committed. And they need more comprehensive drug education programs in their schools to help ensure that the future of our children is a safe and healthy one.

Some of the urban areas of New Jersey have been particularly hard hit by the drug problem. Under this legislation, these cities could receive extra Federal aid if the President declares that the area is in need of assistance due to the high level of drug trafficking, drug abuse, or drug-related violence. I fully expect that many New Jersey communities will benefit greatly by this new program.

Mr. President, a second important initiative included in this bill is the police corps. Every American, every parent, wants the same things for ourselves and our children. We want children to grow up in a neighborhood where they can expand their horizons, to learn and play and walk to the library. We want to be safe in our homes. We want our children to dream about the day when they grow up—not wondering about what they will do if they grow up.

Millions of Americans today do not have this security. Throughout this country there are neighborhoods where neighbors no longer set the tone of the neighborhood, because criminals do. Children have no expectation of safety and locks and bars cannot secure a home. Police officers are too few and neighbors worry about the retribution that criminals will exact if they cooperate with the police. We need to do all we can to restore the protections of civilized society to the hard-working citizens of these neighborhoods. Tougher laws will be no help unless we back them up with human reinforcements—dedicated police officers who belong to the communities they are assigned to patrol. Mr. President, the Police Corps amendment will establish this human wall of safety for America's neighborhoods and families.

Our police forces today, in relation to the amount of violent crime, are one-tenth the size of 35 years ago. We need more police, which means that we have to bring in people who are willing to devote 4 years of their lives to keeping our streets safe. Four years when they are young and at their physical peak. Restoring safety to the streets of many American cities today will demand dedication as great as in time of war. If America had a war to fight, we would not say that only people willing to make a lifelong career of it could serve as soldiers. Likewise, we must draw on the millions of Americans who are willing to give a portion of their lives to the service of their communities by participating in the police corps.

We need more police, Mr. President, but we also need smarter police. Police

work must be among the most prestigious and respected occupations in our society, because it is the most essential. For that reason, police work must not be an alternative to a college education, but an adjunct to a complete education. And like ROTC or other military programs, dedication to public service in the form of a stint in the police corps should be a way to pay for college.

Beyond more police and smarter police, Mr. President, we need police who belong to the neighborhoods they patrol. We need younger police who understand how a community can draw its youngest people into habitual lawbreaking. Many of the Americans most brutalized by crime are black, and live in largely black neighborhoods, but the police departments assigned to protect them are mostly white. The police corps would make a particular effort to recruit minorities, in order to ensure that the new police officers are more likely to be familiar with the neighborhoods they are trying to restore.

Most important, Mr. President, I believe there is a great wellspring of eagerness among the young people of our Nation to provide this kind of service to the Nation. Many students enterng college today have seen, in just a few years, the neighborhoods in which they played ball and biked and walked safely as first- and second-graders turn into combat zones that their younger brothers and sisters watch from behind barricaded doors and windows. Other students recognize that this is a universal problem, that America cannot live up to its promise as a nation if it cannot offer safety to children and strength to communities. That's why 40 percent of college students polled by the Department of Justice recently said that they would be eager to participate in the police corps.

The crime wave of recent years has led many cynics to proclaim a breakdown in civility in America. Rather, Mr. President, I believe, we are witnessing a resurgence of citizenship, a renewed dedication among younger Americans to give something back to this country. The police corps will allow us to draw on this renewed sense of citizenship to restore our troubled neighborhoods and ensure that the most modest of American dreams—a life free of violence and terror—is a reality in every city and hamlet in our land.

Mr. President, it is appropriate to recognize the efforts of an individual, Adam Walinsky, whose determination and persistance have seen to it that the police corps has gone from an idea into, hopefully, a reality. He has shown that one individual can certainly make a difference, and for that we are all grateful.

Last, Mr. President, I am pleased that the legislation before us expands the juvenile justice programs to confront a growing problem for many cities throughout the country—youth gangs. Specifically, this legislation expands on our initiatives in the 1988 drug bill to fund support and prevention programs for the young street gang members in order to give them viable alternatives to life on the streets. Expanding these programs will enable more communities to deal with gangs.

Membership in one of today's street gangs is a passport to a life of crime and violence and more and more, that violence is spilling over and engulfing innocent citizens. We all agree that we need solutions to deteriorating schools, a plodding welfare bureaucracy, miserly health care coverage, the lack of adequate and affordable housing. But we cannot begin to crack through the pervasive hopelessness such conditions breed unless we can keep intact the most basic of all social contracts a government must make with its citizens—the promise to provide secure, safe communities in which we and our children may grow, learn, and prosper.

To this end, we must provide legitimate alternatives to the seductive life of the street gang. For many poor urban youth, the street gang seems to offer the only available road to personal security and a sense of self-esteem and success. We cannot let that continue.

Mr. President, in 1988 when Congress approved the drug bill, it established the Community Youth Activity Program, which authorized funds for education, training, and recreation programs aimed at reaching at risk youth, including school dropouts and youth who are members of gangs or who may become involved with violent gangs. The program is funded at $20 million. New Jersey was awarded one of the first grants of the program. The New Jersey grant is aimed at reaching New Brunswick youth whose older siblings are involved with drugs, crime, and gangs. I have visited this program and can attest to the importance of programs such as this in reaching at risk youth. But one program in one city in New Jersey will not solve this problem. We need more resources targeted at youth gangs.

This expansion provides up to $100 million in funds specifically to support programs designed to reduce the number of juveniles involved in gang crime, to reduce juvenile involvement in drug-related crimes and to promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs. Part of the funds will be allocated to States based on their population, and part will be reserved for developing promising new approaches to stop youth involvement with gangs.

Mr. President, today's violent street gangs have become one of the greatest threats to the security and safety of some of our urban communities. And the threat is growing.

Today, Americans face a new moment in history. Many of our fellow citizens have no dreams for themselves or for their children. They live lives of numbing desperation born of abject poverty, a poverty of body and of spirit.

These Americans face a hopelessness whose crushing weight smothers the promise of a better life. Without the possibility of a better future, the American dream will end. And living in fear that some random act of violence may end their lives, who can seriously plan and work for a better future? To keep the promise of our founding, we must regain control over the forces that corrupt the foundation of opportunity within America. We must give our youth an opportunity beyond the gangs.

Mr. DODD. Mr. President, I rise in support of passage of S. 1241, the Violent Crime Control Act of 1991.

At the outset, I want to pay tribute to Senators BIDEN and THURMOND for their hard work on this legislation. The result of their diligent efforts is a bill that significantly advances our Nation's fight against crime, and will, I hope, ultimately be signed into law by the President. After the long hours of debate over the past several weeks, no one should doubt the time or the energy that the distinguished chairman and ranking member of the Judiciary Committee have expended shepherding this important measure through the Senate.

Mr. President, this bill includes many important provisions that will advance the war on crime:

It authorizes additional aid to State and local law enforcement agencies, and it increases the number of Federal law enforcement officers available to battle illicit narcotics and violent crime.

It will establish regional prisons to house drug-addicted State and Federal convicts, which will ease current prison overcrowding problems.

It includes a provision to convert unused military bases into boot camps for younger offenders.

Finally, it includes initiatives to control youth gangs and to assist areas with intransigent drug and crime problems.

I also firmly support the strong gun control provisions of this bill. In my home State of Connecticut, there were 1,229 shootings and 104 firearms-related deaths last year, and I know I share with my colleagues the desire to see an end to this carnage.

Mr. President, opponents of this measure have fought against it for several years. They argued that it was unconstitutional. They asserted that it would be ineffective at keeping firearms out of the hands of criminals and other people unfit to have them. They

claimed that it amounted to nothing other than a burden on law abiding citizens.

In the interim we have seen Patrick Purdy's senseless rampage with a semiautomatic AK-47 in a Stockton schoolyard, and Joseph Wesbecker's deranged shootings at a Louisville newspaper plant. We have seen police officers killed by outlaws armed with semiautomatic assault weapons, while the officers themselves are armed only with their service revolvers, and we have seen the death of a 29-year-old mother of three, Marcia Williams, who was struck down by a stray bullet just 6 miles from where I am standing.

Mr. President, for all the tough talk on crime, we have a golden opportunity to make a real dent in it. This issue is not a partisan issue. It is a law and order issue. When law enforcement officers tell us that they are facing a new problem in the battle against criminals, we owe it to them to listen, and to help in any way we can to make their work easier and the odds for their and our survival better. The waiting period provision of this bill is a significant advance over current Federal law, and will help reduce the incidence of gun violence in this country.

Despite these improvements in our war against crime, I must admit that I have deep reservations about several sections of this bill. I am concerned that some of the amendments that were adopted during the consideration of this bill have the effect of trampling some of our most basic individual rights.

For example, during the course of debate on this bill, we approved habeas corpus provisions that would simply abolish the right of persons whose constitutional rights were violated in a State criminal trial from getting any hearing in Federal court under a writ of habeas corpus. All of the language considered in both last year's crime bill and this year's as well would have limited State prisoners to one timely appeal in Federal court, however, the language that we have adopted precludes even that one review in Federal court and would strip the Federal courts of their ability to protect individual rights. I believe we must always be extremely careful not to sacrifice constitutional protections as we wage our battle against crime.

Mr. President, while we must ensure that the rights of persons are protected from abuses in the criminal justice system, it is equally critical to limit abuse of the system by felons who wish only to delay the implementation of their death sentence just long enough to find some judge, somewhere, who will have a sympathetic ear or delay long enough for the Supreme Court to change the law in the interim.

Mr. President, the habeas corpus provisions of this bill do not strike the proper balance, the current habeas provisions restricting the right of appeal only to those issues not litigated previously is a signal we are dismantling the very essence of habeas corpus.

Habeas is designed to provide redress in those instances where there are miscarriages of justice. The habeas corpus provisions as currently included in the bill protect the few unscrupulous State court judges who would not overturn jury decisions in the lower court even in the cases where some detectable error is found.

Mr. President, habeas corpus is a serious matter and must not be given the cavalier treatment that it has been given in this bill. The ability to get an unjust conviction overturned hinges on the ability to have all issues in dispute heard by neutral and detached judges. The Senate's decision to ban petitioners from taking any matter already adjudicated at the State level to the Federal level can only be seen as codifying injustice and ensuring that minorities, the poor, and those who are the least well represented in this Nation will continue to suffer and die as a result of mistakes and abuses in the criminal justice system.

On a brighter note, I was pleased that the Senate voted to protect the right of all Americans to be secure at home and safe from unjustified intrusion of government into their lives. The reason that we have the exclusionary rule in the first place is to protect the average citizen against the tendency of government to overreach into our lives. The President's proposal, which was defeated, would have allowed the police to act first and justify later. I am pleased that we have erred on the side of protecting basic civil liberties.

In sum, many of the provisions of this bill are surely tough: We have increased the number of crimes for which an individual can get the death penalty. We have put more money in the hands of police. We have limited the right of convicted petitioners to habeas corpus review. We have done all this in the name of fighting crime.

What we have not done, however, and what I feel we must do, is to begin looking into the root causes of crime in this Nation. Poverty, poor education, and the feeling of hopelessness are among those root causes. I suggest that until we begin to deal with these issues, we can pass a tough crime bill every week but we will never get a handle on the problem of crime.

Mr. President, I support this bill because of the strong gun language in it. I believe that it represents a significant step forward in the fight against crime in this Nation. But I believe just as strongly that we must not make the mistake of forgetting the social problems that engender crime or of diminishing the constitutional liberties which are the greatest legacy we will leave to posterity.

Mr. SIMPSON. Mr. President, here we are—finally. Tonight we will vote on final passage of the 1991 crime bill. This is truly a historic moment. I think we have accomplished a great deal here in these past weeks.

There have been some contentious moments. There have also been moments of courageous compromise, accommodation, and cooperation.

I want to commend the floor managers. The distinguished chairman of the Judiciary Committee—as I have often said—has once again proven that he is, first and foremost, a fair man. He is fair and honorable and is motivated first by those traits—above pure partisanship. While certainly partisan on some matters, I know so first hand, but he is always fair and honorable.

I especially want to commend my dear and able friend and most distinguished colleague, our fine ranking member on the Judiciary Committee, Senator STROM THURMOND from South Carolina. We here in the Senate have always regarded our colleague as tenacious and unstinting in his drive to accomplish the goal he will reach here on the Senate floor tonight. Senator STROM THURMOND will—if he surely is not already—be recorded in the history books of the future as one of the greatest conservative leaders of our party and of this Nation and this body. The Senator from South Carolina has been the strongest driving force behind reform and the toughening of our criminal justice system since I came to this body 12½ years ago and throughout his career. Without his guidance and courage, we would not have accomplished most of the positive aspects of this bill.

It is important to note, Mr. President, that this crime bill meets most of the goals set by our fine President—George Bush. These goals were set for us slightly over 100 days ago when he made tough criminal law reform as one of our national priorities in the 102d Congress.

This legislation is not perfect—no legislation ever is. However, Mr. President, the American people should know that this particular legislation is, indeed, the best they could have hoped for. We have included in this legislation four of the five major goals the President of the United States asked for. In the view of many of us, there remains a good deal of work to be done on two significant parts of this bill: The exclusionary rule and the gun control provisions.

I am deeply troubled by these two sections of this legislation. I am troubled enough that I will vote against the measure. As a part of the leadership for the Republican Party in the Senate, and as a Member of this body who shares the strong views on habeas corpus reform and the death penalty that the distinguished Senator from South Carolina has worked so diligently on, I wanted to vote for it on final passage.

On the other hand, Mr. President, as a westerner and a lifelong Wyomingite

and as a Senator committed to respecting the full sanctity and meaning of the bill of rights, I was extremely troubled by the gun control provisions in this bill. A 5-day waiting period with guarantees of an instant point of purchase background check in the near future is a giant improvement over the Brady bill that was part of the original legislation. That was a great stride towards protecting against even greater incursions on the second amendment. But it goes too far. It limits gun owners, legitimate gun owners, and that is wholly unacceptable to me.

Sadly, however, as with the ban on certain weapons that is also a part of this legislation, those of us who hold the second amendment as dear as any of the other provisions of the bill of rights were just simply outnumbered—we did not have the votes. The American people realize that point. Those votes are all on the record. But this is the democratic process—representative government—at its best and worst all at the same time. A majority of the Members elected to this body by the people of the United States have placed restrictions on the exercise of second amendment rights into this—otherwise—highly commendable bill. That was enough to tilt the balance for me. I will stick by my guns.

We fought the good fight and we lost on gun control.

Mr. President, during all of the debates on this issue over the past years I have tried to use humor and good judgment to make the point—to express in my own personal way—the way the people of Wyoming and the West feel about this very sensitive issue. I make no such comment here tonight. I have said it all before.

But, as I have also said, this is otherwise an excellent bill. We do get downright tough on criminals.

We have done something significant—historic, as the Attorney General and the President have said—on reforming the obscene abuse of the habeas corpus laws—those postconviction review procedures which have allowed axe-murderers and butchers to escape the punishment society has demanded of them.

So this is truly historic. This is, in total, an excellent crime bill that many can be proud of.

Mr. President, it is my sincere hope to be named a conferee when this bill comes back from the House and goes to conference committee. I will work very hard to see that we improve the bill in conference. I know it is too much to ask—pure pie in the sky—to expect the House to pass this bill without first weakening its most significant and effective provisions.

So I will look forward to conference and will hope to be a participant in that process to protect the highly commendable provisions of this legislation.

For too long now the law abiding citizens of the United States have been needlessly victimized by criminals. For too long now, the police forces of our country have been outgunned and understaffed. For too long now, criminals have been able to laugh off the death penalty, knowing they will die of old age before they are ever caught, tried, sentenced, and executed. No more.

This bill as it now stands will go a long way towards answering the demands of the American people to get tough on criminals—put them away—and restore safety to our streets and faith in our criminal justice system. Those are its merits. But the gun control provisions make it too strong a medicine for me. Althouth a heady brew it is—I cannot swallow that part of it and yet it could well be a healing potion for a society sickened by senseless crime.

Thank you, Mr. President, and once again, I would like to commend the distinguished managers of the bill and express my deep respect and appreciation for their hard work and leadership.

Mr. BYRD. Mr. President, early last year, a convicted felon with three outstanding warrants, went to a gunshop and purchased a TEC-9, a semiautomatic weapon. The noteworthy feature of this weapon is its rapid-fire capabilities. In a matter of seconds it can fire 32 9-millimeter rounds. On the evening of February 17, 1990, this felon—who should have been identified, arrested, and prevented from purchasing the weapon at the time of sale—coldbloodedly shot and killed a Broward County, FL, sheriff's deputy. The felon also severely injured the deputy's partner.

Another ex-convict, this one from Atlanta, GA, walked into a Georgia gunshop and purchased a number of weapons. Two of these weapons were used by the convict in October 1987 to shoot a police officer.

On March 29 of this year, a man adjudicated by a Virginia court to be a danger to himself and others, purchased two Colt .45 semiautomatic pistols, and six boxes of ammunition. Eleven days later this same man, who was prohibited by law from owning or possessing a firearm, was charged with the murder of a Philadelphia businessman and the wounding of two others in an intense shooting spree.

The patchwork of differing State and local laws contributed to each of these tragic circumstances. All of these criminals had one thing in common: they wounded and killed their victims with weapons that they were prohibited by law from possessing. In 1968, Congress adopted the Gun Control Act, which prohibits felons, fugitives, drug addicts, and the mentally ill from purchasing or possessing firearms. This act requires all purchasers who seek firearms from federally licensed dealers to sign a form declaring that they do not fall into a prohibited category.

But, as the families of the officers in Florida, Georgia, and the victims of the shooting spree in Philadelphia, and thousands of others know, it is very easy to circumvent the Gun Control Act. That law has no enforcement mechanism. Any prohibited purchaser can walk into a gunstore and buy a weapon. That person needs just two things to purchase a firearm—money and willingness to lie. A convicted felon can simply provide false information on the Federal firearms form and walk out with the guns. The gundealer is never the wiser. He has no way of knowing if 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.

According to Bureau of Justice statistics, handguns are involved, every year, in an average of 9,200 murders, 12,100 rapes, 210,000 robberies, and 407,600 assaults. While it is true that there is a thriving black-market in handguns, enabling many criminals and potential criminals to buy handguns illegally, many, many others buy them legally. I am pleased that the Senate, with the adoption of the Violent Crime Control Act of 1991, will move towards taking the steps necessary to enforce the Gun Control Act of 1968. The Dole-Metzenbaum-Mitchell compromise amendment that was adopted prior to the Fourth of July recess will make it more difficult for criminals to purchase weapons. It will establish a 5-business day waiting period prior to the purchase of a handgun in order to allow law enforcement officers to conduct a background check on potential purchasers. The compromise amendment will require that within 1 day of the proposed transfer, the gundealer must provide a copy of the purchaser's statement to the chief law-enforcement officer of the place where the purchaser resides. The statement, verified by some form of picture identification, must include the purchaser's name, address, date of birth, and the date the statement is made. Unless the chief law-enforcement officer, or his designee, notifies the gundealer that the sale would violate Federal, State, or local law, the sale may proceed 5 business days after the date the purchaser signs the statement.

An important feature of this compromise amendment allows handgun transfers to take place in fewer than 5 days if the chief law-enforcement officer, or his designee, notifies the dealer, prior to 5 days, that there is no information indicating that the purchase is prohibited. In order to encourage the transfer of the handgun in fewer than 5 business days and to speed up the flow of information about potential purchasers' criminal records, the Dole-Metzenbaum-Mitchell compromise amendment to the crime bill would provide grants to States to assist in developing or expanding computerized criminal record files. I believe that this

provision is essential if any waiting period is to be effective. In many States today, criminal history searches must be done manually. That means that a person—or persons—have to hand-search through tens, hundreds, or even thousands of paper files. In my own State of West Virginia, there is no automation of criminal record files. The State and local law enforcement authorities simply have not had the funds even to start this process. They want it; they know it would be beneficial; they just do not have the money.

Why is it important to develop a national, computerized, criminal history, records system with all States participating? In today's increasingly mobile society, criminals are particularly transient. They move from place to place to avoid being caught. As they move, they often continue their criminal activities. How do we track these criminals down when there is no nationwide system with all States participating and sharing their crime records? More to the point, even if we had such a system of nationwide shared criminal records, how useful would it be if it were based solely on a name index? How many criminals use aliases? How many felons know that they can foil efforts to track them by obtaining false identifications? What we need—and do not yet have—is a nationwide system of shared criminal records based on positive identification—fingerprints, not just names.

Now, Mr. President, I know that there are people who claim that a waiting period will do nothing to stop a criminal from obtaining a weapon. Regardless of what laws Congress adopts, if a criminal wants a gun, a criminal is going to get a gun. I do not necessarily disagree. But the least we can do is make it as difficult as possible for a criminal to get a gun. Convicted felons laugh at the current system. They walk into a gunshop and purchase whatever weapon they want. They do not have to take any risk to get a weapon. All they have to do is provide false information on their firearms application. Does anyone really think that a criminal is concerned about whether he or she tells the truth on a Federal firearms application? Would someone who robs or kills care if he or she tells a lie?

Criminals who lie on their Federal firearms application today can easily circumvent the provisions of this compromise amendment—including the waiting period—by presenting false identification to the gun dealer. We will not be able to stop criminals from buying guns from licensed dealers unless we can identify them by their fingerprints. Names alone—and names attached to criminal files—are insufficient. We have to have positive identification, not just name identification, to help keep guns out of the hands of those who are already legally barred from purchasing them.

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. The easiest and most accurate method we currently have for positive identification is fingerprinting. Now there are new methods, such as DNA mapping, that are being used in some areas. But they are very expensive and their validity is still being tested. Fingerprinting is today's most widely used method for positive identification. 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 has established a separate division, the Fingerprint Identification Division, whose sole responsibility is to determine positive identification and the prior criminal history of an individual. Early last year, however, it was brought to my attention that this division was close to complete collapse. I discovered that over 700,000 fingerprint cards and 2,000,000 criminal dispositions were not filed and not available for searches. Over 8.8 million criminal history files are backlogged, and 2.9 million criminal dispositions have not even been logged in. Today, it takes an average of 20 days—not 24 hours, not 7 days, but 20 days—to complete a positive identification search.

I found that this overwhelming backlog could be attributed to two things: rapid turnover of the Washington-area work force, and the lack of sufficient space to house the computers and other equipment necessary to upgrade and computerize a positive identification system.

The FBI's Fingerprint Identification Division annually experiences turnover rates that range from 15 to 30 percent. This high turnover rate is a result of the division's inability to retain a predominantly low-graded, clerical workforce in the District's high cost-of-living area.

Moreover, advances in technology have made the current paper-based system outmoded and insufficient to meet the essential needs of Federal, State and local law-enforcement authorities. The lack of adequate funds and space has made it impossible for the identification division to keep pace with advances in technology. Many States have far outdistanced the FBI by developing new automated fingerprint identification systems. Because there has been no leadership at the Federal level, these State systems have not been developed to be compatible with each other or with the FBI's files.

Recognizing the overwhelming need to revitalize the fingerprint identification division, the FBI, with my support, has undertaken a major effort to upgrade its already outmoded system.

In order to assist in the development of a national identification system, however, it is necessary to ensure that the essential State infrastructure is in place. The FBI hopes to complete its revitalization program by 1995. It is important, therefore, that the States develop their computerized criminal history files in conjunction with the FBI's identification division. It is imperative that we delay no longer. It is not feasible to have a new automated identification system in place in 1995 if the States are not linked to the Federal system. The Dole-Metzenbaum-Mitchell compromise language requires that the Attorney General expedite the revitalization of the Fingerprint Identification Division of the FBI. The compromise language will ensure that States are ready to participate in the national criminal record system.

Now, let's look at where the States are in developing computerized criminal history record systems. Twenty-two States already participate in the Interstate Identification Index, the triple-I, which is a computerized name index that contains the names and criminal records of convicted felons. But the system is not operating at optimal efficiency. For the participating States, an average of 52 percent of their files are available to the triple-I. Missouri and Pennsylvania each have 20 percent of their criminal history files available to the system. Colorado, on the other hand, has 100 percent of its files available to the system. Among the nonparticipating States, 22 plan to participate in the next 5 years. Of those States that do not currently participate, 17 cited the reason for nonparticipation, in a report compiled by the Bureau of Justice Statistics, as "insufficient resources to convert to a records system." In plain words, that means they would like to participate, but they just do not have the money.

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. The Dole-Mitchell-Metzenbaum compromise language recognizes that need by authorizing $100 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, with priority for funding to go to those States that have the lowest percent currency of case dispositions in computerized criminal history files.

Currently, there are three States—Maine, Mississippi, and West Virginia—

that have no computerized criminal history records systems in place. Except for these three States—West Virginia, Maine, and Mississippi—all of the other States currently have some sort of computerized system of criminal history records in place. These systems can be expanded upon 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 with some form 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 am pleased that the Dole-Metzenbaum-Mitchell compromise language provides that preference in funding will be given to those States that have the lowest percent currency of case dispositions in computerized criminal history files.

A computerized Federal-State system that links fingerprints and criminal history records is worth developing. It will work. It will enhance the law-enforcement community's ability to fight crime; it will help keep guns out of the hands of those who are legally barred from owning them.

An integrated State-Federal fingerprint/criminal records system will be of immeasurable benefit to the law-enforcement community. It will provide a means to check whether an applicant for a law-enforcement position has a prior criminal record, whether an arrested person is on parole or probation, or whether a suspect can be identified from latent fingerprints found at a crime scene.

The benefits of such a system will extend far beyond the law-enforcement community. Many applicants for employment or positions of trust—in schools, child care centers, banks, and security positons—are often required to submit fingerprints. However, under the current system it is often impossible to thoroughly check a candidate's background and qualifications for these sensitive positions. The development of a positive identification system will help to prevent child sex abusers from migrating across State lines and wreaking havoc on our children's lives. This system will make it easier for child care centers to avoid hiring convicted—or even arrested, but not convicted—child molesters. It will make it easier for banks to ensure they do not hire security officers who are convicted felons.

This technology could be made available to police officers in their patrol cars. It is possible that at some point in the future a police officer could pull a fugitive over for a routine traffic violation, and would be able to ascertain in a matter of minutes, simply by placing fingerprints into a scanner, that the felon was a wanted criminal.

This system will not be a detriment to law-abiding citizens. It will significantly help our society. This system will positively identify those who are not entitled—felons, drug abusers, the mentally incompetent—to purchase or own firearms. We are not talking about hunters; we are not talking about women purchasing a handgun for self-protection. We are talking about preventing criminals, mental incompetents, drug addicts, and convicted felons, from walking into a store and buying a handgun—a handgun that can be used to rob a law-abiding citizen in his own home; a handgun that can be used in the course of a rape; a handgun that can kill.

This system will work. Statistics already indicate that in those States that have some sort of background check and/or waiting period in place, thousands are prevented each year from purchasing a firearm. In California, for example, 2,182 handgun sales were prohibited in 1990. Indiana's 7-day waiting period stopped 939 prohibited persons from making handgun purchases in 1988. Maryland's 7-day waiting period stops about 4 percent of all handgun sales. In 1990, in Maryland, 1,300 people were prevented from illegally purchasing handguns. New Jersey has required a background check for handgun purchases for more than 20 years. According to the New Jersey State Police, more than 10,000 convicted felons have been caught trying to buy handguns during the last 20 years. Criminals do try to buy handguns from licensed dealers. This is not very smart. The Violent Crime Control Act of 1991 will help stop criminals from getting handguns.

This system will work. Currently our criminals are better armed than our law-enforcement officers. It is time to stop that. It is time to make it more difficult for criminals to obtain weapons, and make it harder for criminals to commit crimes using these weapons. It is time to get serious. We must fight crime on our Nation's street corners, not just talk about fighting crime. The time for talking has expired. Keeping weapons out of the hands of drug dealers, murderers, and cop killers is a step that we must take, and must take now. I urge my colleagues to join with me in supporting the final passage of the Violent Crime Control Act of 1991.

Mr. DOLE. Mr. President, it was back on March 11, when President Bush came to the House Chamber and challenged Congress to pass tough, anticrime legislation.

Tonight, with passage of this bill, the member of this body can say to the President that we may have missed the deadline by a few weeks, but the wait was worth it because tonight we have the opportunity to pass historic anticrime legislation.

Federal prosecutors have been fighting since 1972 for a comprehensive Federal death penalty. And with passage of this bill, they will have just that. The bill before us authorizes the death penalty for over 40 murder related offenses, for major drug kingpins, and thanks to Senator D'AMATO's vigilance, to virtually every murder committed with a firearm.

Over recent years, Americns have become increasingly disgusted with a court system that seemed to reward and welcome unreasonable delays in the carrying out of sentences.

The legislation before us tonight deals with this problem, as it includes the President's habeas reform proposal—the toughest habeas reform ever to pass the Senate.

The bill before us also contains major victories for victims rights organization. The bill lifts the cap on the crime victims fund, and in requires mandatory restitution for crime victims.

Is this bill perfect? Of course not. The President and many of us wanted to expand the exclusionary rule so that guilty criminals would not go free on technicalities.

The name of this game, however, is numbers. And, despite the outstanding efforts of Senator THURMOND, we simply didn't have the numbers to achieve this.

As we know, there are those who say that this is not a crime bill, it's a gun bill. Yes, this bill contains a waiting period for handgun purchases. But it's a waiting period that will be phased out as instant check systems are phased in.

I want to congratulate President Bush and Attorney General Thornburgh for their leadership in forging this legislation. Both the President and the Attorney General were clear from the beginning what they wanted in a crime bill, they held our feet to the fire, and, by and large, we delivered.

I spoke to the President yesterday, and can report that he strongly favors this legislation.

I also want to congratulate Senators BIDEN and THURMOND for their yeoman's work throughout these long weeks. Both of them won some votes and lost some votes during the consideration of the bill, but both never gave up trying to reach a tough final package.

But, most of all, Mr. President, I want to thank the Americna people. Year in and year out, law-abiding Americans have cried out for protection, they've cried out for safer streets and neighborhoods, they've cried out for a justice system which offers swift and final punishment to the guilty.

And, tonight, we can say that we have truly done what all of us were elected to. We have done the work of the people.

Mr. MITCHELL. Mr. President, I will vote for final passage of the bill before

us because on balance, it is a valuable contribution to the effort to control violent crime in our society.

The Senate was successful in preserving against the threat of serious assault the fundamental strength of the fourth amendment to the Constitution—the amendment which, in America, prohibits police intrusion into the homes and workplaces of citizens without a warrant and without probable cause.

The so-called exclusionary rule is the subject of a great deal of extremely and misleading rhetoric, but it is the single most important deterrent against the abuse of fourth amendment rights. The bill before us preserves the essential elements of that rule and for this reason, it deserves our support.

The bill before us also provides for a rationally structured process by which the Nation can move toward keeping handguns out of the hands of convicted felons.

The gun provisions were controversial and the subject of long debate. But the final version of this provision in the bill before us takes the best of the various proposals that have been proposed. It provides for a waiting period while criminal record systems are not sufficiently automated to permit an instant telephone check, and it sets us clearly on the path to being able to create such a checking system within a defined time period.

Additionally, the measure funds important initiatives dealing with prison construction and boot camps, it includes the Police Corps Program, which will give inner-city youth for the first time a real opportunity to become part of the system of law-enforcement in this Nation, and which will also provide our cities an important additional resource for the law enforcement work that must be done.

Along with many good provisions, unfortunately, the bill contains some provisions I oppose.

I regret the weakening of the habeas corpus procedures beyond the point at which court efficiency warrants some streamlining. This part of the bill is wrong and unfortunate.

I deeply regret the inclusion of additional Federal death penalties. It has never been shown that the death penalty either deters crime or reduces the incidence of homicide. The Federal death penalty, in particular, is likely to apply to fewer than 10 homicide cases a year. In a nation where there are over 20,000 homicides of all kinds annually, it is foolish to suggest, as so many have done, that the addition of the death penalty for another 10 of these crimes is going to be a deterrent to anyone. This part of the bill is wrong and unwise.

So the bill does not reflect my judgment of what would be the best crime bill. But on balance, its good provisions outweigh the bad.

Violent crime is a continuing and serious problem in our Nation. The programs of help to local and State law enforcement officials give our States and cities real tools to begin the difficult task of securing safe streets and neighborhoods.

For that reason, the bill on balance deserves support, and I will vote for it.

Mr. BIDEN. Mr. President, today, the Senate votes on final passage on a cirme bill that has been 2 years in the making.

The bill we are passing today is the most sweeping anticrime bill in our history. While it contains some provisions which I believe are misguided—and many other provisions which have been oversold for their crime-fighting promise—it is a comprehensive package that can play an important role in making our streeets safer and our neighborhoods more secure.

The bill we are passing today is several hundreds of pages long. During its consideration, the Senate disposed of almost 100 amendments to it, adopting about 90 of these amendments. The bill we brought to the floor contained proposals drafted or coauthored by almost 30 Democratic Senators.

Now, as we near adoption of it, I want to step back and point out some of the major features in this bill. And as we review these, I am proud to say that with a few exceptions, the major provision of the Democratic crime bill remain intact, and many of the major provisions of the President's bill have been rejected by the Senate.

Let us start with the Brady bill, the handgun waiting period. This was a critical aspect of our Democratic bill—a provision drafted by Senators MITCHELL, KOHL, and GORE—to keep guns out of the hands of criminals.

Because while we agree with our Republican friends that criminals who use guns should be punished more stiffly, we also think we should try to stop gun murders before they happen. That's what the Brady bill is about, and that's why I am proud to have a modified version of it in this bill.

Second, the assault weapon ban. This bill contains Senator DECONCINI's ban on 14 types of killer assault weapons.

And again, this was a key difference with the President's bill. As his bill did, ours too increases the penalties for using such guns. But again, we want to prevent assault weapon massacres from happening in the first place—and not just console the families of victims of such crimes with stiff penalties for the criminals after the fact.

Next, the death penalty. I think that this is the most oversold part of this bill, because we all know that most of the Federal offenses covered by this bill are rare and are already punishable by mandatory life in jail.

Nonetheless, a majority of both Democrats and Republicans in the Senate favor the death penalty, so we have in here a compromise between our two bills.

Like our bill, this bill bans the execution of the retarded, and prevents a disproportionate impact of the bill on Native Americans; like the Republican bill, this bill—unconstitutionally in my view—authorizes the death penalty even in cases where no death results.

Next, local law enforcement. This bill provides an authorization for aid to enable local police agencies to boost their ranks by up to 10,000 new crimefighters—more police, more prosecutors for the true front lines of this fight. Again, a provision from our Democratic bill, and not the President's, included in this legislation as it will pass.

The same is true for our increased authorization for Federal law enforcement. Our bill also authorizes 2,800 new Federal crimefighters—1,000 FBI agents, 400 new DEA agents, 350 new prosecutors, and more. We need this help, and we need it urgently.

Next, the exclusionary rule. Our bill codified the Leon case, and maintain the law where it now stands. The President's bill authorized warrantless searches "in good faith," and permitted all guns seized—however seized—to be admitted. This bill contains our Democratic proposal, not the President's.

Regional drug prisons and boot camps. Our bill authorized 10 new regional prisons, to hold 8,000 drug offenders, and our bill included a boot camp provision based on amendments by Senators LEVIN, COATS, BENTSEN, and BOREN.

The President says he wants criminals off the streets, but unless we build new prisons, the threat of incarceration is just that—a threat, not a reality. The bill to be voted on today includes our provisons, from the Democratic crime bill.

Habeas corpus reform. Here, the bill now includes the habeas plan submitted by the President—a terrible proposal that does nothing to make the streets safer and much to increase the risk that innocent people will be executed. It is a horrible plan that I intend to work hard to modify in conference.

Next, the police corps. our bill adopts the Sasser-Specter-Graham compromise police corps plan. This, again, is another sound anticrime measure from our bill and not the President's.

Then we have the "alien terrorist removal act." This terribly misguided measure would have introduced secret trails, conducted with secret evidence, in secret proceedings to our courts, under the guise of national security. I am very pleased that this onerous provision from the Present's crime bill is not in the crime bill we are voting on tonight.

And finally, the bill the Senate is to vote on contains three provisions from

our Democratic bill, not found in the President's bill:

First, rural crime initiatives. Our bill contains a comprehensive initiative, drafted by Senators BAUCUS and PRYOR, to fight rural crime, by providing more money, training, and help for rural police agencies.

Second, youth gang initiative. Our bill contains an innovative and tough new program to tackle the problem of juvenile gangs.

And third, drug emergency areas. Our bill contains the Biden-Specter-Kennedy Drug Emergency Areas Act, a plan to rush emergency aid to the areas hardest hit by drug crime.

These are the major provisions of this crime bill. Thought some come from the President's crime bill, the vast majority—and in my view, the most important provisions—come from our Democratic bill.

Mr. President, the crime bill we are going to vote on tonight is not perfect. Some parts of it are downright awful.

But the heart of it—sound firearms measures like the Brady and DeConcini bills; increases in police and prosecutors; rural crime, drug emergency, and antigang plans; the police corps; drug prisons and boot camps—these core items of this bill will help us fight crime, and will do so without any intrusion on Americans' constitutional rights.

So tonight, I urge my colleagues to support this crime bill. Let's take this first, important, and needed step toward ending the senseless killing and shooting in our cities and towns, and the plague of violent crime that our drug epidemic has caused.

Mr. President, now, as we near passage, I want to step back and again point out some of the major features of the bill. As we review these, I am proud to say that with a few exceptions, the major provisions of the Democratic crime bill now remain intact, and many of the major provisions of the President's bill have been soundly rejected by this body. A couple have been adopted by this body, particularly habeas corpus.

But I would like to start with the Brady bill, the handgun waiting period. This was a critical aspect of our bill, and the provision drafted by Senators MITCHELL, KOHL, and GORE to keep guns out of the hands of criminals.

Second, the assault weapons bill contains Senator DECONCINI's ban on 14 types of killer assault weapons.

Like our bill, the bill bans the execution of the retarded, and it prevents the disproportionate impact of the bill on Native Americans. And like the Republican bill, this bill unconstitutionally, in my view, authorizes the death penalty for even, in a few cases, where no death has resulted.

Next, in local law enforcement, this bill provides an authorization for aid to enable local police agencies to boost their ranks by up to 10,000 new crimefighters—more police, more prosecutors—for the true front-line fighters in this war against crime. And again, the provisions from our Democratic bill remain intact.

I remind everybody here, lest we get carried away, the President had absolutely no provision, zero provision, for additional police. None of this was in the President's bill.

Next, the exclusionary rule. Our bill codifies the Leon case and maintains the law where it now stands. We fortunately rejected resoundingly the President's proposal to expand the ability of police to engage in warrantless searches.

And the regional drug prisons and boot camps: In our bill, we authorize prisons to hold up to 8,000 new drug offenders. Our bill includes boot camp provisions based on the amendments by Senators LEVIN, COATS, BENTSEN, and BOREN.

Next, the police corps. Our bill adopts the Sasser-Specter-Graham compromise on police corps. This again is another sound anticrime measure. There are many other provisions.

But let me point out lastly that we have the Alien Terrorist Removal Act, which the President proposed. That has been stricken from this bill, and the rural crime initiatives, which we wanted very badly, are in this bill.

Mr. President, as I said, I thank, particularly, my democratic colleagues who cast some very difficult votes this time out and stayed with almost all, except one, essential provisions of the Biden bill. I want to thank them very much. I truly believe we have a sound, tough bill. No one would deny that this is an extremely tough bill.

Let me conclude by indicating what we all say, but I do not know whether people understand how much we managers of bills mean it and that is I want to thank Ron Klain, chief counsel of the Judiciary Committee; Jeff Peck, Victoria Nourse, and Chris Putala and Anne Rung of my staff, the majority staff, and Terry Wooten, and everyone on Senator THURMOND's staff, and also Senator HATCH's staff who worked so closely. But I particularly want to thank Terry and his immediate staff. It is a pleasure to work with them. There have been some pretty tense moments, and there were times in these last 11 days where it did not look as though we were likely to have a bill.

I also am being reminded to mention someone I need not be reminded to mention. Manus has been the man who really has been in the hot seat this whole time. He is the guy that has known the details of the bill and the guy who had to pull the final pieces together.

Manus, I thank you personally for your willingness to do all that you have done and, more importantly, for your ability.

Lastly, let me thank the two leaders, Senator DOLE and the majority leader, Senator MITCHELL, who have had to wade in here at appropriate times to make sure we had a bill.

That is enough thanking, except I see one other guy on the floor who I want to say, for the record, I am always happy when I find myself on his side because it enhances my prospects of winning four or fivefold, that is my friend from New Hampshire, Senator RUDMAN. I never like it when we are on opposite sides. It always diminishes my prospects for winning. I pay special tribute to him and Senator SPECTER, and others.

I suspect my time has about run, and I am prepared to yield.

Mr. DOLE. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. DOLE. I will make my statement after the vote, because I know a number of other Members have commitments. But I hope no one would object if we suggested that this bill be known as the Biden-Thurmond bill, and if there is no objection, I ask unanimous consent that it be known as the Biden-Thurmond bill.

Mr. BIDEN. Reserving the right to object, and I will not object. I would do anything Senator THURMOND wanted. I am delighted to call it that or anything else that Senator THURMOND would like to have it called, but I hope we will not have to go through any more Biden or Biden-Thurmond bills to finally get a crime bill, because this particular Senator is tired of doing this on a revolving door basis. It seems to me that once a year we do this and go through this exercise. So I hope this time the President will be satisfied, and the House will move, and that we will maybe take the politics of crime out of the upcoming election. I am not going to object at all. I am delighted for that to be called the Biden-Thurmond bill.

Mr. DOLE. Biden-Thurmond crime bill.

Mr. BIDEN. We can call it "the Biden-Thurmond crime bill that was brought about through a lot of pain and suffering." We can call it anything. Anything the Senator from South Carolina wants to do is fine by me.

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays are ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

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

The result was announced—yeas 71, nays 26, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—71

Adams	Exon	Mack
Akaka	Ford	McConnell
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Nickles
Bingaman	Gorton	Nunn
Boren	Graham	Packwood
Brown	Gramm	Pell
Bryan	Grassley	Reid
Bumpers	Harkin	Riegle
Byrd	Heflin	Robb
Chafee	Hollings	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Seymour
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Thurmond
Dixon	Levin	Warner
Dodd	Lieberman	Wirth
Dole	Lott	Wofford
Domenici	Lugar	

NAYS—26

Bond	Hatfield	Pressler
Breaux	Helms	Simon
Burdick	Johnston	Simpson
Burns	Kennedy	Smith
Craig	Leahy	Stevens
Cranston	McCain	Symms
Durenberger	Metzenbaum	Wallop
Garn	Moynihan	Wellstone
Hatch	Murkowski	

NOT VOTING—3

Bradley	Pryor	Specter

So the bill (S. 1241), as amended, was passed.

(The text of S. 1241, as passed, will be printed in a future edition of the RECORD.)

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the short title of S. 1241 be the Biden-Thurmond Violent Crime Control Act of 1991.

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

Mr. MITCHELL. 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.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations:

Calendar 235. Raoul Lord Carroll, to be President, Government National Mortgage Association;

Calendar 236. Constance B. Harriman, to be a member of the Board of Directors of the Export-Import Bank;

Calendar 237. Eugene Peters, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships;

Calendar 238. David W. Mullins, Jr., to be Vice Chairman of the Board of Governors of the Federal Reserve System;

Calendar 239. Maj. Gen. Alexander M. Sloan, to be Surgeon General, USAF; and

Calendar 240. Lt. Gen. James B. Davis, to be general.

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:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Raoul Lord Carroll, of the District of Columbia, to be President, Government National Mortgage Association.

EXPORT-IMPORT BANK OF THE UNITED STATES

Constance Bastine Harriman, of California, to be a member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1995.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Eugene Peters, of Pennsylvania, to be a member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1992.

FEDERAL RESERVE SYSTEM

David W. Mullins, Jr., of Arkansas, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 8036.

To be Surgeon General, USAF

To be lieutenant general

Maj. Gen. Alexander M. Sloan, [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of general under the provisions of title 10, United States Code, section 601:

To be general

Lt. Gen. James B. Davis, [redacted] U.S. Air Force.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

TAX FAIRNESS

Mr. MACK. Mr. President, I am pleased to join my colleagues this morning to discuss tax fairness. We have just experienced a decade of dramatic changes in the Tax Code. Some of these changes were very good, but unfortunately, some were bad. The effects of those changes on the fairness of our tax system is, obviously, an important issue.

I don't believe, however, that the issue of tax fairness is a terribly complex one. The bottom line is that less taxes are fair, and more taxes are unfair.

There are, as we all know, a vocal group of liberal idealogs who have gained notoriety by claiming that the poor pay more taxes and the rich less taxes as a result of efforts to cut taxes. They use this as a reason for advocating tax hikes today. In their convoluted thinking, raising taxes is evidently desirable because everyone is then equally poor.

Mr. President, I have to admit I would be amused at this argument were it not that so many Members of Congress and the media seem to be taken by it. This veil of ignorance that seems to covering so many eyes has so far prevented absolutely legitimate and vitally important tax cuts—such as a reduction in the capital gains tax rate—from being implemented.

But instead of being amused, I am absolutely amazed that these tax-raising idealogs have any credibility whatsoever on economic matters. Mr. President, I am sure you remember that it was these same people—the ones who today clamor that higher taxes equates to more fairness—who were dead wrong about the economy during the 1980's.

We heard a constant drumbeat from them back then. Their message was that the economy was on the road to ruin. And it was the Republican tax cuts of the early 1980's that were to blame.

But let me just remind you, Mr. President, what happened. Those tax

cuts, beginning with the Economic Recovery Tax Act of 1981, spawned a 92-month-long expansion—that is nearly 8 years—which is the longest peacetime expansion in U.S. history.

During that nearly 8 years, GNP grew an average of 4.2 percent per year. This means that the entire U.S. economy was an amazing one-third larger in 1990 than it was in 1982.

That fact alone ought to be enough to lead reasonable men and women to regard the claims of the tax-unfairness crowd with great skepticism. But let me identify three specific claims they made then which are so counterfactual that all doubts should grow into complete disregard. Those claims were the "competitiveness crisis", the "investment crunch," and the "deindustrialization depression."

Remember the "competitiveness crisis"? The United States was going to turn into a second-rate economic power because we could not compete with Japan, Germany, or any of the other industrialized countries.

According to this story, U.S. firms, could not match their international competitors in either price or quality, and so were increasingly unable to sell their goods abroad. Indeed, newspapers and magazines were filled with anecdotes revealing the incompetence of American business in internatioal trade.

But as a keen observer has so eloquently stated, "The plural of anecdote is data." And the data show that U.S. exports, after adjusting their value for inflation, nearly doubled since 1982.

Think about it, Mr. President, In 1982—a mere 9 years ago—we exported about half of what we do today. This is an utterly remarkable record, and one that definitely does not reflect a country that is descending into third world status. In fact, the U.S. share of exports by industrial countries—that is, the percent of total industrialized country exports represented by the United States—is at an all-time high. Our exports have boomed in relative as well as absolute terms. The U.S. share of total industrial employment of all 24 nations that make up the OECD increased, too.

What about the investment crunch? Supposedly, we were not investing enough, and our productivity was suffering. The truth is that we had remarkable increases in both investment in productive assets and manufacturing productivity.

Total private investment in real terms grew by a robust 71 percent during the 1980's expansion. This means that the Nation's capital stock was nearly three-quarters higher last year that it was in 1982. This is an astonishing increase in the economy's ability to support new jobs and produce wealth.

The result of this huge increase in investment was a boom in manufacturing productivity. The Bureau of Labor Statistics reported that manufacturing productivity rose at a 3.6 percent rate during the 1980's, nearly three times as fast as during the 1970's. By the end of the 1980's, an estimate by the Federal Reserve Board showed that factory productivity was 30 percent higher than the average productivity of 8 other industrialized nations, including Japan and Germany.

The 1980's expansion—this period of remarkable growth—saw many changes in the U.S. economy, but deindustrialization was not one of them. In fact, according to the Federal Reserve, manufacturing production nearly doubled. The Fed's index of manufacturing production—which represents the output of our Nation's factories—grew by 6.3 percent year to a total increase of 48.3 percent.

Factory production now accounts for 23.3 percent of U.S. GNP. This share was at an all-time low in 1982 but now is as high as it was during the 1960's. Remember that the 1960's era has always been considered the high-water mark for industrial activity.

Clearly, Mr. President, the liberal idealogs have been proven utterly wrong on economic policy. It is hard to find a record more misinformed and confused than theirs.

So it is not at all surprising to find that their claims with respect to tax fairness are way out in left field. Republican successes at cutting taxes have not resulted in a shifting of the burden from the rich to the poor. In fact, the reverse has happened.

According to a recent study by two former Treasury Department econometricans, Gary and Aldona Robbins:

> The Wealthiest taxpayers pay more taxes and a larger share of total taxes than they did a decade ago. The richest 1 percent of taxpayers paid 18 percent of all income taxes in 1981. But in 1988 (the latest available data), they paid 27 percent of all income taxes.

The poor are far better off as a result of the 1980's Republican tax cuts.

> About 4 million people no longer pay income taxes. Those who do pay less than half of what they would have paid under the 1980 tax law.

Does this mean our tax system is now completely fair, Of course not. But it is unfair because taxes are too high, not because they are too low.

Why are the liberal tax-raising idealogs so completely wrong? In a recent debate on the Senate floor, one Senator who has been taken in by all of this unfairness nonsense said "Fairness is in the eye of the beholder." Could it be that the eyes of those beholders are crossed?

LABOR-HHS-EDUCATION APPROPRIATIONS—H.R. 2707

Mr. RUDMAN. Mr. President, the fiscal year 1992 Labor-HHS-Education appropriations bill, H.R. 2707, as reported by the Appropriations Committee makes unacceptable cuts in the Low-Income Home Energy Assistance Program [LIHEAP].

The committee's recommendation for LIHEAP on the surface appears to provide $1,600,000,000. A closer look at the funding mechanisms indicates that only $855,000,000 will be available to States during the 1991–92 heating season. The committee recommendation delays the obligation of $455,000,000 to September 30, 1992, and provides that $300,000,000 of the total will be made available only after submission to Congress of a formal budget request by the President that includes an emergency designation under the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985. The Director of the Office of Management and Budget has made it clear that he will not recommend to the President that any of these funds be designated as an emergency.

Mr. President, the recommendation ignores the request for current services funding made by 11 members of this committee and 51 members of the Senate. The $855,000,000 available on October 1, 1991 is $680,625,000 less than the total amount available during the 1990–91 heating season and $755,235,000 less than the total fiscal year 1991 levels for this program, more than a 47-percent cut. By way of illustration, Mr. President, I would like to submit for the record the following table displaying cuts which States will face with an $855,000,000 energy assistance program:

Alabama	−$8,515,000
Arizona	−2,650,000
California	−29,383,000
Connecticut	−17,628,000
Forida	−10,115,000
Hawaii	−606,000
Illinois	−36,132,000
Iowa	−12,810,000
Kentucky	−10,855,000
Maine	−11,945,000
Massachusetts	−33,533,000
Minnesota	−28,151,000
Missouri	−15,975,000
Nebraska	−5,983,000
New Hampshire	−6,866,000
New Mexico	−3,678,000
North Carolina	−19,425,000
Ohio	−34,505,000
Oregon	−8,656,000
Rhode Island	−5,674,000
South Dakota	−5,148,000
Texas	−17,131,000
Vermont	−4,730,000
Washington	−13,990,000
Wisconsin	−26,461,000
Alaska	−$4,908,000
Arkansas	−5,468,000
Colorado	−9,688,000
Delaware	−3,093,000
Georgia	−8,255,000
Idaho	−4,137,000
Indiana	−18,621,000
Kansas	−5,595,000
Louisiana	−5,698,000
Maryland	−15,645,000
Michigan	−39,028,000
Mississippi	−6,097,000

Montana	-4,656,000
Nevada	-1,547,000
New Jersey	-33,666,000
New York	-106,371,000
North Dakota	-5,678,000
Oklahoma	-5,502,000
Pennsylvania	-49,135,000
South Carolina	-6,621,000
Tennessee	-9,818,000
Utah	-4,681,000
Virginia	-19,344,000
West Virginia	-5,945,000
Wyoming	-2,050,000

The committee's recommendation is dependent on States' abilities to operate LIHEAP programs on a reimbursable basis. However, the recommendation assumes that State governments will be able to provide the up-front monies necessary to operate reimbursable programs or that regulated utilities and fuel oil dealers will wait a full year to receive payment for this winter's energy supplies. In my view, these are unrealistic assumptions. Most States have completed their budgets for their fiscal year which begins on July 1. In addition, many State governments are facing their own budget crises and few utilities have rate structures which permit them to carry nonpaying customers for a full 12 months. It is far more likely that States will scale back their heating programs, cutting thousands of eligible households and clients from the rolls.

LIHEAP is safety net protection for our Nation's poor and elderly. Moreover, it is one of the only programs available to the newly poor. At last year's program level of $1,610,235,000 the program served less than one-quarter of all eligible households. In the last 14 months alone, the number of individuals eligible for LIHEAP assistance has increased by 2,000,000.

The loss of heating assistance in cold weather States poses life-threatening situations for our most vulnerable citizens—the elderly, children, and the handicapped. It is these populations that comprise a majority of current LIHEAP clients. More than half of all LIHEAP recipients have incomes below $6,000 and annual energy costs which exceed $900. An average LIHEAP household spends roughly 13 percent of its total income for home energy costs. By contrast, an average American household spends only 3.4 percent of its income for home energy.

When Federal LIHEAP benefits fail to meet energy requirements of the poor, serious human consequences occur. Two years ago in New Hampshire, a mother had her 18-month-old child removed from her home by State authorities because she could not provide adequate heat and electricity for the child. Similar human tragedies occurred elsewhere in the frost belt that same winter. The homeless shelter in Cedar Rapids, IA, housed 45 people who were without heat; 18 families in St. Louis, MO were temporarily reconnected to heating sources when the weather reached 16-degrees below zero and utilities offered a compassionate Christmas gift. These and other similar events occurred at a time when the LIHEAP appropriation exceeded $1,300,000,000.

Federal support for this program is at an all time low. At its inception in 1980, $1,600,000,000 was available for heating assistance, $1,200,000,000 in formula grants to the States for energy assistance and $400,000,000 for crisis assistance.

There are difficult choices which must be made in providing funding for the many critical programs in this bill. Virtually every program funded through the Departments of Labor, Health and Human Services, and Education provides some measure of assistance to our Nation's most needy and vulnerable citizens, but our priorities are misplaced when massive cuts in the baseline of this critical poverty program are approved.

It is difficult to challenge the merit of increases above the fiscal year 1991 levels for critical education programs such as chapter 1 which increased by $208,871,000, Eisenhower mathematics and science grants by $37,989,000, foreign language assistance $10,120,000, Head Start by $250,000,000, special education by $244,449,000, vocational and adult education by $77,773,000, and libraries by $6,849,000). However, a child cannot be expected to arrive at school prepared to learn if that child lives in a home with no heat. Similarly, providing an adequately and properly heated home during the cold winter months for our children and elderly citizens, is the one of the most critical preventive health measures we can provide.

The committee has identified preventive health issues as a priority and provided substantial increases for the health, research and services programs—increases such as $49,000,000 for community health centers, $50,000,000 for healthy start, $22,000,000 for homeless health care, $98,690,000 for the maternal and child health block grant, $68,612,000 for comprehensive AIDS treatment programs, $57,298,000 for the preventive health services block grant, $60,314,000 for immunization, $678,147,000 for the National Institutes of Health, and $137,000,000 for the Alcohol, Drug Abuse and Mental Health block grant. These programs understandably enjoy wide support and have had my support in the past. I would note, however, that these these same programs received similar increases last year. As worthy as they are, they provide little assistance to a child or an elderly person who freezes to death for lack of adequate shelter. We simply cannot continue to cut this program on an annual basis and expect that the basic human needs of warmth and shelter will continue to be met.

Our Nation's poor children and elderly citizens deserve better. Fifty-one members of the U.S. Senate have indicated that this critical poverty program should be funded at a current services level. At a minimum it deserves funding at a hard freeze. I am confident that the wishes of a majority of the U.S. Senate will prevail. Certainly, there is time for continued extended discussion before this bill is acted upon by the full Senate. The debate has already begun.

THE POWER OF PRICING

Mr. MOYNIHAN. Mr. President, on June 19 the Senate passed the Surface Transportation Efficiency Act of 1991 by a vote of 91 to 7. This signalled our intention to begin a new era of Federal transportation policy—the search for efficiency. This is clearly stated in the declaration of policy contained in this legislation:

> The principal purpose of federal highway assistance shall henceforth be to improve the efficiency of the existing surface transportation system.

To do this, we mean to rely on the ability of State and local governments to choose the solutions that best fit their problems. For some, this will mean previously untried solutions.

On July 9 the New York Times described just such an innovation. It has developed in response to congestion pricing. Drivers crossing the San Francisco/Oakland Bay Bridge have acquired the habit of stopping to pick up hitchhikers in Oakland before heading to work. This is in order to quality for the Bridge's high occupancy vehicle lanes.

If a car contains three or more persons, it can enter the HOV lane, proceed across the bridge at 50 miles per hour rather than 15 miles per hour, and avoid the one dollar toll. Congestion pricing has led people to do on their own what no law could ever force them to do—go out of their way to pick up hitchhikers on the way to work. The power of pricing!

Mr. President, I ask unanimous consent that the attached article appear in the RECORD at this point.

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

[From the New York Times, July 9, 1991]

OAKLAND JOURNAL: THUMBS UP FOR NEW WAY TO TRAVEL

(By Katherine Bishop)

OAKLAND, CA.—Like people everywhere who travel to a large city to work, commuters here often begin their days with traffic jams, shouted expletives and frayed nerves. But in a state known for innovative solutions, some have found a way to make lemonade from their lemon of a commute.

What they have created is a mass hitchhiking movement. People wanting to cross the Bay Bridge into San Francisco can line up under the MacArthur Freeway overpass at the northeastern tip of Lake Merritt and wait for drivers to pick them up. After each car has at least three people inside, the driv-

er qualifies not only to use car-pool lanes but also to skip the $1 toll to cross the bridge during rush hours.

While anonymous passengers settle back to read their newspapers or just relax, their equally anonymous chauffeurs whisk them past lines of cars gridlocked at toll booths and metering lights. And drivers who might otherwise feel they were contributing to the traffic problem can argue that they have become part of the solution.

By all accounts it is a congenial one, especially considering the options. The number of private cars crossing the bridge on weekdays during morning rush hours, 6 A.M. to 10 A.M., has been rising steadily to about 40,000, nearly 3,000 more than can be moved across the bridge at a snail's pace. Each morning, 30,000 people jam into cars of the BART subway system to ride under the bay, and 6,000 brave wheezing diesel buses that have been known to break down at midspan and fill with smoke.

With the population of the two counties east of San Francisco Bay, Alameda and Contra Costa, swelling to more than two million in the last decade, getting to work virtually dares residents to be creative.

Dubbed "casual car pooling," what began as an informal system on a street corner has in the last few years gained an official wink of approval. City and state authorities have cooperated to designate a space for passengers and drivers to line up. And while a growing number of highways in this state and others have car-pool lanes for commuters, experts here say they know of no other example in which drivers employ such a system to use commuter lanes and to avoid tolls.

"I was surprised how fast it caught on," said Donald S. Larson, the scheduling manager for AC Transit, the East Bay bus system that has reduced its morning commuter fares, to $1.25 from $1.75, in an unsuccessful attempt to compete with the car pool. "Twenty years ago it would have been unexpected to see a young lady get into a car with two strange men."

Riders say they are not worried about getting into a car with strangers. "It's not hitchhiking; it's another form of commuting," said Lynn Daly, an executive secretary. "With this, you know exactly where everybody is going.

The Oakland Police Department said it knew of no complaints from either passengers or drivers.

Not that riders are without horror stories: female drivers zipping along, attention focused on rear-view mirrors as they apply mascara; male drivers trying to twist their neckties into Windsor knots while steering with their knees. And then there is the man known to passengers as the "totally sexist pig lawyer from Kansas City with the Rabbit convertible" who keeps up a steady stream of obnoxious comments about the anatomy of the women in other cars.

By all accounts, though, virtually all rides are smooth ones.

Drivers pull up and take the first two people in line, who have been waiting for no more than a few minutes. The riders simply get in and state their destination, usually the financial district.

Some passengers say they are picky about the kind of music or radio station they will listen to, since part of the etiquette is that the driver calls the tune. So the riders sometimes jockey their position in line to get a car that they think will most likely be tuned to a station they prefer. BMW's can often be counted on for National Public Radio, vans for M.C. Hammer, local hero and rap star. Others maneuver their place in line to get a ride in a large luxury car where they can snooze in leather seats for a 17-mile trip in 20 minutes from the Lake Merritt pickup point.

Some riders acknowledged they were reluctant to ride with certain car-driver combinations. With drug-related crime plaguing this city, such judgments can be based on racial and cultural stereotypes that can prove hurtful.

Harry McGee drives a gleaming black 1967 Oldsmobile Cultlass that is a rolling commercial for the automobile detailing shop where he works. But from the reaction of riders seeing a black man at the wheel of such a vehicle, with its gold and black tuck-and-diamond leather interior, Mr. McGee said he believed that many incorrectly conclude that he might be offering more than a smooth ride and tapes of 60's classics.

"A lot of people see this car and look in here and see a black face, they just walk on by," Mr. McGee said. "It does upset me, but I try not to let it bother me. When I drive my Volvo they just jump right in."

Drivers, too, report their share of unpleasant passengers, like the ones who got sick, wanted to smoke or refused to wear a seat belt, an act that can result in a traffic citation for the driver. And no one will give a second ride to the woman who spends the entire trip trying to convert the driver to what has been described as her somewhat unusual religious beliefs.

The general satisfaction with this car-pool system has caused it to spread to street corners in Oakland and near BART stations in the East Bay, attracting several thousand commuters. Those left unhappy with the hitchhiking are the operators of the bus and subway systems, which are losing thousands of dollars a day by being snubbed in the morning, only to be relied upon by the same people to bring them home in the evening, since there are no tolls or car poll lanes for the return trip.

Moreover, BART has noticed that many people drive to the nearest subway station, park in the lot at no charge, ride the subway one stop to make the parking technically legal, then get off and get in line for a casual car pool.

"They say they don't want to be crushed on the subway," said Sy Mouber, a spokesman for BART who is investigating the practice. "They say they'd rather ride in a fancy car."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,308th day that Terry Anderson has been held captive in Lebanon. As we debate the merits of various measures to control and reduce violent crime in the United States, we are acutely aware of the pain of the victims. I ask my colleagues at this moment to reflect on the plight of the Americans held hostage in Lebanon and their families. And to commit themselves as intently to efforts to free them.

FEDERAL BLUE-COLLAR PAY CAPS

Mr. PELL. Mr. President, I want to thank Senator MIKULSKI and Senator DECONCINI, for the inclusion of report language in H.R. 2622, the Treasury-Postal Service-General Government appropriation bill, directing the Office of Personnel Management [OPM] to examine problems in the Federal Wage System [FWS] and estimate the cost of a gradual phase out of the pay caps which have been placed on Federal blue-collar worker wages since 1979.

The intent of Congress in establishing the FWS was to compensate Federal blue-collar workers on a scale comparable to private sector wages in each of the 135 geographic wage areas across the country. The pay caps placed on FWS worker wages, however, have limited any increase in pay to the increase given to General Schedule workers. Clearly, the imposition of the pay cap has created a situation which is inconsistent with the original intent of Congress.

The result of the continuous application of these caps is that many Federal blue-collar employees are no longer receiving equitable compensation.

The inequity of the pay cap is reflected in the current wages for many FWS positions when compared with private sector wages for similar jobs. While employees in some areas have received full comparability adjustments to their pay, in my home State of Rhode Island for example, Federal blue-collar pay now lags on average 19 percent behind private sector wages for similar jobs. The discrepancy in wages in some States is even greater, reaching a high of 32 percent in the Richmond, VA, wage grade area. With pay lags as high as these, it is no wonder that many Federal blue-collar employees are demoralized. If we are not going to pay our blue-collar workers competitive rates, we cannot expect to have a strong, competitive work force.

The Federal Prevailing Rate Advisory Group, a joint labor-management group that advises OPM on policy matters concerning the operation of the FWS, has recommended that the pay caps be lifted. I have introduced legislation to give Federal blue-collar workers full adjustments to their pay based on the annual local wage survey of private industries in each wage grade area, effectively removing the pay cap on wages. This bill, S. 310, has been cosponsored by Senators MIKULSKI, HARKIN, KERRY, AKAKA, and DASCHLE.

While the appropriations legislation does not actually lift the cap on wages, it takes an important step foward in improving pay for Federal blue-collar workers by highlighting the problems in the wage grade system and indicating support for a gradual phaseout of the pay caps.

Again, I appreciate the hard work of Senator MIKULSKI on this issue and thank Senator DECONCINI for his cooperation.

NO FORCIBLE REPATRIATION OF BOAT PEOPLE FROM HONG KONG

Mr. PELL. Mr. President, I was concerned to learn that the Hong Kong authorities are planning to open discussions with the Government of Vietnam on the possibility of sending boat people back to that country to be held in special camps which would be established under international management. While we all recognize that the continuing flow of boat people causes a serious burden for the countries of the region, it is surely not too much to ask that there should be no forced repatriation of persons to a country from which they have fled.

This is what happened in December 1989 when some 51 Vietnamese were taken from camps in Hong Kong at night and returned to Vietnam. The outcry at that time, in this country, in England, where the action was sharply criticized in the House of Commons, and around the world, helped ensure that it was not repeated.

A recent article in the Wall Street Journal entitled "Boat People Lose Their Best Friend" noted that the United States has apparently changed its policy of opposing the involuntary return of boat people by giving its consent to Hong Kong's plan to negotiate for the holding centers in Vietnam. I have been assured that the administration continues to oppose forced repatriation, and I was gratified to receive a similar reassurance from the new U.N. High Commissioner for Refugees, Mrs. Sadako Ogata, when she met with the Foreign Relations Committee on June 25.

Because of my concern about this situation I have written to the Governor of Hong Kong urging that there be no forced repatriation, and recommending that screening for refugee status be further reviewed and strengthened with full participation by representatives of the UNHCR to assure that the human rights of boat people are protected.

I ask that the text of my letter to the Governor of Hong Kong and the June 17 Wall Street Journal article by Anne Wagley Gow 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,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 25, 1991.

Hon. Sir DAVID CLIVE WILSON,
Governor of Hong Kong, Victoria.

DEAR SIR DAVID: I am writing about the recent announcement that the United Kingdom and Hong Kong plan to hold discussions with Vietnam, with the participation of the United Nations High Commissioner for Refugees, with the air of establishing an internationally managed center in Vietnam for boat people determined not to be refugees who have not accepted voluntary return.

As you know from our past correspondence, I am deeply concerned that there should be no forcible repatriation, and very much hope that any discussions of this subject will bear in mind the need to assure the continued safety and welfare all Vietnamese returned to Vietnam.

The prospect of returning asylum-seekers to Vietnam, even with international protection, makes it especially important that screening procedures for refugee status are carried out as fairly and accurately as possible, with the active participation of the UNHCR, and with assured rights of review and appeal. Such screening may have to be repeated to assure that earlier determinations remain valid, before any are sent back to Vietnam.

I am giving a copy of this letter to Mrs. Sadako Ogata, the United Nations High Commissioner for Refugees, during her visit here this week so she will know the importance we attach to this subject and to the role of her organization. My appreciation in advance for your consideration of these concerns.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

[From the Wall Street Journal, June 17, 1991]

BOAT PEOPLE LOSE THEIR BEST FRIEND

(By Anne Wagley Gow)

America has traditionally been the Vietnamese boat people's staunchest ally. Not any more. Earlier this month it reversed its longstanding policy, and accepted the principle of sending boat people to holding camps in Vietnam, whether they want to go or not. The proposed camps would be run by an international agency such as the U.N. High Commissioner for Refugees.

The UNHCR already runs a voluntary repatriation program, which has resettled about 7,000 boat people in Vietnam since March 1989. And it has long urged Vietnamese to leave their country only under the Orderly Departure Program. Indeed, 57,000 Vietnamese emigrated through the ODP last year. The ODP, however, is no alternative for those who fear retribution from the authorities.

Take the case of Hoa, a former interpreter for the U.S. Army, who applied to emigrate under the ODP in early 1988. Shortly after he was given an ODP case number, local authorities crossed his name off the household registration list, thus denying him access to rationed staples and restricting his freedom of movement. He was forced to hide every few days when officials searched his home for illegal occupants. A non-person in his own country, Hoa decided to flee by boat instead of waiting for his ODP case to be determined.

The U.S. decision was welcomed here in Hong Kong, which is holding almost 60,000 boat people. The British colony has long tried to deter new arrivals by incarcerating the boat people in squalid and overcrowded detention centers. But the Vietnamese keep on coming. More than 10,000 have arrived in Hong Kong so far this year, compared with 6,598 for all of least year. Clearly, transferring people from Hong Kong camps to Vietnamese ones is no solution; it ignores the reasons people fled in the first place.

For two years I worked in Hong Kong's Whitehead Detention Center, population 24,000. I spoke with hundreds of Vietnamese desperate for help in obtaining refugee status. These people realize that only a small percentage will be granted refugee status and the chance to re-settle. Still, they prefer a bleak future in Hong Kong's detention centers to going back.

The boat people consider the refugee-screening process biased, cursory and a violation of internationally accepted judicial norms. Amnesty International and the Lawyers Committee for Human Rights agree. Asia Watch recently documented the cases of individuals who had been persecuted for their leadership in human rights activities in Vietnam, yet as boat people in Hong Kong had been denied refugee status.

The camps' screening questionnaire is concerned with only the applicant's immediate family, while the bio-data questionnaires used by Vietnamese authorities in applications for education and employment ask about family activities as far back as the French colonial period, before 1954. Discrimination in employment and education is still the norm for individuals whose parents or grandparents were associated with the French, or with the Americans. More severe penalties are confiscation of property, forced movement to New Economic Zones, as well as denial of household registration and identity cards.

Take the case of Nhuan, who was the leader of a Catholic community in a small village in northern Vietnam. The local authorities confiscated his prayer books and crucifixes. On Sept. 6, 1988, the village attempted to celebrate the pope's honoring of 117 Vietnamese Catholic martyrs, but public security officials broke up the ceremony and Nhuan went in to hiding. He fled to Hong Kong and does not want to return to Vietnam, where other Catholic leaders have been sentenced to 10-year prison terms for celebrating the same event. His claim to refugee status was denied:

The boat people's second concern is that they do not trust the UNHCR's assurances that they will return to Vietnam in safety if they accept voluntary resettlement. Illegal departure remains a crime in Vietnam; those who have dissented in the past, even if by escape, know they can never be fully reintegrated into a political structure that continues to view them with suspicion.

As one told me, "If I return to Vietnam I will be subject to special surveillance by the authorities. My record will carry the mention 'political suspect' because of my stay in Hong Kong. In my whole lifetime I, myself, as well as my children and grandchildren will not be allowed to take any important jobs with the government or simply to have an employment as any other citizen has."

There are alternatives to forced repatriation. First, the flaws in the refugee-status determination procedures can be addressed. (It is only fair to note that there have been improvements.) It's also possible to work for substantive changes within Vietnam, of which improvement in human rights should be a top priority; in the meantime, the U.S. and other countries can step up re-settlement.

The U.S., Britian and Hong Kong should not be playing with the lives of the Vietnamese boat people. Instead, they should be listening to what the boat people are saying by their unwillingness to return to their homeland.

SHOSHONE IRRIGATION PROJECT AMENDMENT

Mr. SIMPSON. Mr. President, I am pleased to join with my able friend and colleague, the senior Senator from Wyoming, MALCOLM WALLOP, in offering this amendment that is so very important to the people of Wyoming and my own hometown, Cody, WY.

Like its neighboring project, the Buffalo Bill Reservoir, this modest pro-

posal is a model of effective State and Federal cooperation. The State and the Federal Government share equally in the costs associated with upgrading and modernizing the Shoshone Irrigation Project and all share in the economic benefits the upgrade will bring.

Mr. President, as I stated, this is a modest proposal. We are asking today for $1.2 million in Federal cost share appropriations. The State will provide its share. Eventually, the total cost of this project repair will be $50 million—shared equally between the State and Federal Government.

This will be a two-phased funding solution. First, a $15 million, 50/50 cost share under the Federal Government betterment and rehabilitation loan program—including this $1.2 million; second, this project will be included in the Pick Sloan Missouri Basin Program. Including the Shoshone Irrigation Project within the Pick Sloan Missouri Basin Program ensures that the Federal Government will realize a return on its investment in this rehabilitation and betterment project.

So, Mr. President, I thank my colleagues for their support. This is good for Wyoming and good for the Federal Government. I especially want to thank the floor managers, the able Senator from Louisiana [Mr. JOHNSTON] and my friend and colleague, the able Senator from Washington, Senator HATFIELD—their leadership and consideration is truly appreciated and they have my utmost respect.

IMPLEMENTATION AND IMPACT OF EMPLOYER SANCTIONS MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I transmit herewith the first and second annual reports on implementation and impact of employer sanctions. These reports are required by section 402 of the Immigration Reform and Control Act of 1986 (Public Law 99-603; 8 U.S.C. 1324a note).

GEORGE BUSH.

THE WHITE HOUSE, *July 11, 1991.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1536. A communication from the President of the United States, transmitting, pursuant to law, a report on the recission or deferral of certain budget authority; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-1537. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, an assessment by an organization outside of the Department of Defense of the staff requirements of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; to the Committee on Armed Services.

EC-1538. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to modify the physical examination requirement for members of the Ready Reserve of the armed forces; to the Committee on Armed Services.

EC-1539. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the status of multifamily housing within the control of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

EC-1540. A communication from the President of the Oversight Board, Resolution Trust Corporation, transmitting, pursuant to law, the annual report of the Oversight Board for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1541. A communication from the President of the Oversight Board, Resolution Trust Corporation, transmitting, pursuant to law, the annual report of the Oversight Board on the Resolution Trust Corporation for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1542. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on negotiations concerning offsets in military exports for fiscal year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1543. A communication from the Acting General Counsel of the Department of Transportation, transmitting, pursuant to law, the fiscal year 1992 budget requests of the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

EC-1544. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation to promote international cooperation and to reduce dolphin mortalities in the purse seine fishery in the eastern tropical Pacific Ocean by amending the mandatory trade embargo provisions of the Marine Mammal Protection Act; to the Committee on Commerce, Science, and Transportation.

EC-1545. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of a delay in rendering a decision in a certain case before the Commission; to the Committee on Commerce, Science, and Transportation.

EC-1546. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on railroad emissions; to the Committee on Environment and Public Works.

EC-1547. A communication from the Administrator of General Services, transmitting, pursuant to law a proposed prospectus for the lease of space at One Judiciary Square, 441 Fourth Street, N.W., Washington, D.C. for the Department of Justice; to the Committee on Environment and Public Works.

EC-1548. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, comments on the recommendations affecting physician payment under the Medicare program; to the Committee on Finance.

EC-1549. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the 1991 annual report of the Social Security Administration; to the Committee on Finance.

EC-1550. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report of the Accountability Review Board on an incident in Bolivia; to the Committee on Foreign Relations.

EC-1551. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the 1989 costs of operating privately owned vehicles to government employees while on official business; to the Committee on Governmental Affairs.

EC-1552. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1990 report on the valuation of the United States Coast Guard Military Retirement System; to the Committee on Governmental Affairs.

EC-1553. A communication from the Director of the United States Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; to the Committee on Governmental Affairs.

EC-1554. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, the report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations, for the period ending March 31, 1991; to the Committee on Governmental Affairs.

EC-1555. A communication from the Vice Chairman of the Farm Credit Retirement Plan Pension Committee of the Federal Intermediate Credit Bank of Jackson, transmitting, pursuant to law, an annual pension plan report for the plan year ending December 31, 1990, for the Farm Credit Retirement Plan; to the Committee on Governmental Affairs.

EC-1556. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-50 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1557. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-51 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1558. A communication from the Attorney General of the United States, transmitting, pursuant to law, notification that the Justice Department will contest, or will refrain from defending a provision of the Competition in Contracting Act of 1984; to the Committee on the Judiciary.

EC-1559. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report to Congress which ad-

dresses the administration of the Employee Retirement Income Security Act during calendar year 1989; to the Committee on the Judiciary.

EC-1560. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the 1991 annual report on the financial status of the railroad unemployment insurance system; to the Committee on Labor and Human Resources.

EC-1561. A communication from the Director of National Drug Control Strategy, transmitting, pursuant to law, a draft of proposed legislation entitled "The Drug Treatment and Prevention Act of 1991"; to the Committee on Labor and Human Resources.

EC-1562. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the report on Department of Defense procurement from Small and Other Business Firms for the period October 1990 through March 1991; to the Committee on Small Business.

EC-1563. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1564. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the Health Professional Scholarship Program operated by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

EC-1565. A communication from the Secretary of the Army, transmitting, pursuant to law, a report stating that the program acquisition unit cost and current procurement unit cost baselines have been exceeded by 25 percent or more for the Family of Medium Tactical Vehicles system; to the Committee on Armed Services.

EC-1566. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal all references to the depleted uranium program relating to the National Defense Stockpile Program; to the Committee on Armed Services.

EC-1567. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to authorize the transfer by lease of four naval vessels to the Government of Greece; to the Committee on Armed Services.

EC-1568. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to amend sections 151 (a), 154, and 155 (a) of title 10, United States Code, to provide for designation of the Vice Chairman of the Chiefs of Staff as a full member of the Joint Chiefs of Staff, and to make conforming amendments; to the Committee on Armed Services.

EC-1569. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a statement to the United States Senate with respect to a transaction involving U.S. exports to the Kingdom of Thailand; to the Committee on Banking, Housing, and Urban Affairs.

EC-1570. A communication from the President of the Oversight Board of the Resolution Trust Corporation, transmitting, pursuant to law, notification of the inability to forward the GAO's audit of the financial statements of the Resolution Trust Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC-1571. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a Pay-As-You-Go Status Report; to the Committee on the Budget.

EC-1572. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to establish a new position at the Assistant Secretary level at the Department of Commerce; to the Committee on Commerce, Science, and Transportation.

EC-1573. A communication from the Secretary of Commerce, transmitting, pursuant to law, the 1991 update of the National Implementation Plan for the Modernization and Associated Restructuring of the National Weather Service; to the Committee on Commerce, Science, and Transportation.

EC-1574. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1575. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1576. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

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EC-1579. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1580. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1581. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Annual Energy Outlook, 1991"; to the Committee on Energy and Natural Resources.

EC-1582. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, the biennial report on continuing studies of the quality of water in the Colorado River Basin; to the Committee on Energy and Natural Resources.

EC-1583. A communication from the Secretary of Energy, transmitting, pursuant to law, the eighth annual revision of the comprehensive Ocean Thermal Technology Application and Market Development Plan for the Federal Ocean Thermal Energy Conversion Program; to the Committee on Energy and Natural Resources.

EC-1584. A communication from the Inspector General, Department of the Treasury, transmitting, pursuant to law, a report entitled "Review of Reimbursable Superfund Costs, Fiscal Year 1989"; to the Committee on Environment and Public Works.

EC-1585. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Toxic Chemicals: EPA's Toxic Release Inventory Is Useful But Can Be Improved"; to the Committee on Environment and Public Works.

EC-1586. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to revoke the withdrawal of certain land in Multnomah County, Oregon, to remove certain land from the Cibola and Havasu National Wildlife Refuges, and for other purposes; to the Committee on Environment and Public Works.

EC-1587. A communication from the Secretary of the Interior and the Secretary of Commerce, transmitting jointly, pursuant to law, the annual report on the activities of the Department of the Interior and the Department of Commerce with respect to the Emergency Striped Bass Research Study for calendar year 1989; to the Committee on Environment and Public Works.

EC-1588. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, a report entitled "Monitoring Changes in the Use of, Access to, and Appropriateness of Part B Medicare Services"; to the Committee on Finance.

EC-1589. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the report of the Commission on physician payment under Medicaid; to the Committee on Finance.

EC-1590. A communication from the Secretary of State, transmitting, pursuant to law, notice that it is in the national interest not to deduct certain amounts under section 5 of the Fishermen's Protective Act; to the Committee on Foreign Relations.

EC-1591. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to July 3, 1991; to the Committee on Foreign Relations.

EC-1592. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during May 1991; to the Committee on Governmental Affairs.

EC-1593. A communication from the Benefits and Risk Manager of the Fourth District Farm Credit Institutions, transmitting, pursuant to law, the 1990 annual report for the Farm Credit Institutions in the Fourth District Amended Retirement Plan; to the Committee on Governmental Affairs.

EC-1594. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report entitled "Annual Report on Missing Children, 1990"; to the Committee on Judiciary.

EC-1595. A communication from the Counsel of the Pacific Tropical Botanical Garden, transmitting, pursuant to law, the annual audit report of the Pacific Tropical Botanical Garden for calendar year 1990; to the Committee on the Judiciary.

EC-1596. A communication from the Counsel to the National Council on Radiation Protection and Measurements, transmitting, pursuant to law, the annual audit report of the Council for calendar year 1990; to the Committee on the Judiciary.

EC-1597. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Refugee Resettlement Program for fiscal year 1990; to the Committee on the Judiciary.

EC-1598. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Bilingual Education in the Nation"; to the Committee on Labor and Human Resources.

EC-1599. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on implementation of the Age Discrimination Act of 1975; to the Committee on Labor and Human Resources.

EC-1600. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the 18th actuarial valuation of the railroad retirement system; to the Committee on Labor and Human Resources.

EC-1601. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses, and for other purposes; to the Committee on Veterans' Affairs.

EC-1602. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

EC-1603. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans' Affairs.

EC-1604. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARKIN, from the Committee on Appropriations, with amendments:

H.R. 2707. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-104).

By Mr. ADAMS, from the Committee on Appropriations, with amendments:

H.R. 2699. A bill making appropriations for the government of the District of Columbia and other activities chargable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-105).

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 2608. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-106).

By Ms. MIKULSKI, from the Committee on Appropriations, with amendments:

H.R. 2519. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-107).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERREY:

S. 1446. A bill to provide for an equitable and universal national health care program administered by the States, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BRYAN, Mr. BOND, and Mr. SHELBY):

S. 1447. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 1448. A bill to establish an Assistant Secretary for Administration of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BRYAN, Mr. BOND, and Mr. SHELBY):

S. 1449. A bill to develop Federal Government performance standards and goals plans, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 1450. A bill to establish the Office of Management and the Office of the Budget; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself and Mr. ROTH):

S. 1451. A bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 1452. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on retail dealers in liquors and beer, and to limit the period during which such tax may be assessed; to the Committee on Finance.

By Mr. WIRTH (for himself, Mr. DANFORTH, Mr. LAUTENBERG, Mr. AKAKA, Mr. MACK, Mr. PACKWOOD, Mr. SPECTER, Mr. BOND and Mr. CRANSTON):

S. 1453. A bill to prohibit the awarding of U.S. Government contracts to foreign persons that comply with the Arab boycott of Israel; to the Committee on Governmental Affairs.

By Mr. SEYMOUR:

S. 1454. A bill to establish penalties for participation in illegal gang activity; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. GARN, Mr. REID, Mr. BRYAN, Mr. CRAIG, and Mr. SYMMS):

S. 1455. A bill entitled the "World Cup USA 1994 Commemorative Coin Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH:

S. 1456. A bill to amend the Internal Revenue Code of 1986 to restore foreign tax credits for taxes paid or accrued to Angola; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. GRASSLEY):

S. 1457. A bill to amend the Older Americans Act of 1965 to assist older individuals to avoid falling and to prevent incorrect medication and adverse drug reactions; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 1458. A bill to amend the Older Americans Act of 1965 to authorize services relating to the appointment and monitoring of guardians, and of representative payees, of older individuals; to the Committee on Labor and Human Resources.

S. 1459. A bill to amend the Older Americans Act of 1965 to provide supportive services to strengthen informal caregivers who assit older individuals in need of long-term care, to remain in private residences; to the Committee on Labor and Human Resources.

By Mr. BROWN (for himself and Mr. WIRTH):

S. 1460. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior for the purpose of establishing a national wildlife refuge, to authorize the Secretary of the Interior to sell a portion of the property comprising the Rocky Mountain Arsenal for public or commercial uses, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN (for himself and Mr. WOFFORD):

S. 1461. A bill to amend the Federal Deposit Insurance Act to require States whose State-chartered financial institutions cause disproportionate Federal insurance losses due to inadequate State regulation, to pay an insurance premium as a condition of future deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. STEVENS, and Mr. BENTSEN):

S. 1462. A bill to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself, Mr. LOTT, Mr. JOHNSTON, Mr. SHELBY, Mr. CRAIG, Mr. INOUYE, Mr. NICKLES, Mr. PACKWOOD, Mr. STEVENS, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SYMMS, Mr. WALLOP, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. HELMS, Mr. COCHRAN, Mr. MCCONNELL, and Mr. BOND):

S. 1463. A bill to amend the Federal Water Pollution Control Act to establish a com-

prehensive program for conserving and managing wetlands in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SANFORD (for himself and Mr. RIEGLE):

S. 1464. A bill to amend the Securities Exchange act of 1934 to enhance investor disclousure requirements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FOWLER:

S. 1465. A bill to amend the Egg Products Inspection Act to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect consumers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH:

S. 1466. A bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

By Mr. HEFLIN:

S. 1467. A bill to designate the U.S. Courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse.

By Mr. MOYNIHAN:

S. 1468. A bill to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary; to the Committee on Finance.

By Mr. GORTON (for himself and Mr. WALLOP):

S. 1469. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 1470. A bill to alleviate burdens imposed upon educational agencies and institutions by the Family Educational Rights and Privacy Act of 1974 with respect to the maintenance of records by campus law enforcement units; to the Committee on Labor and Human Resources.

By Mr. ADAMS (for himself, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, and Mr. DECONCINI):

S. 1471. A bill to amend the Older Americans Act of 1965 to establish an elder rights program, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. METZENBAUM, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. NICKLES, and Mr. D'AMATO):

S. Res. 153. Resolution to express the Senate's support for democratization in Yugoslavia; considered and agreed to.

By Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. LAUTENBERG):

S. Con. Res. 52. Concurrent resolution condemning resurgent anti-Semitism and ethnic intolerance in Romania; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY:

S. 1446. A bill to provide for an equitable and universal national health care program administered by the States, and for other purposes; to the Committee on Finance.

HEALTH USA ACT OF 1991

Mr. KERREY. Mr. President, on behalf of the people of the State of Nebraska, who guided this bill's development, I am pleased to introduce the Health USA Act of 1991.

Health USA comprehensively reforms the way our Nation finances health care. It controls soaring health care costs; extends coverage to every American; provides long-term care for our elderly; and unties health care coverage from employment, so that concerns over health benefits do not lock Americans out of productive jobs. And because Health USA budgets health care expenditures, reduces administrative costs, improves health care management, and encourages prevention, it achieves its goal without America spending a single penny more for health care.

In fact, under Health USA, the majority of America's families will pay less for health care than they do now. The average family in Nebraska will get better health coverage and save about $500. Over the next 5 years, Health USA will save America over $150 billion in health care expenditures—over $150 billion we can use to increase American productivity, competitiveness, and living standards.

Health USA is more than a health care reform. It is an essential building block for a strategy of economic expansion and opportunity. It is an equally essential building block for a humanitarian strategy. And in both economic and humanitarian terms, I believe it will improve life in America—for the Nation as a whole, for businesses, for families and individuals. It will lead us to take better care of our own health, better care of our children, and better care of our work force.

Health USA is not the Canadian model of health care, or the British model, or the German model. It is an American model. It builds on the best of American health care while it eliminates the worst. It maintains our high-quality, private-sector-based system of delivering care; but it replaces our system of financing, so that all Americans can be covered at less cost. Health USA preserves our freedom to choose among private doctors, hospitals, and health plans; but it eliminates excessive paperwork and administrative costs. It builds on America's advanced systems for managing care; but it gives greater incentive to invest in prevention, and reduces interference with the clinical decisions of health professionals. It keeps our current health system's high quality; but it encourages even more diversity in the marketplace by rewarding good outcomes, encouraging healthy lifestyles, and placing a premium on simplicity.

Health USA's financing is based upon two important American principles. The first is personal responsibility to do and pay what you can. The second is that the best public decisions are those made in the full sunlight of citizen visibility. Not only must all Americans pay something for their health care, but no able American can expect to be subsidized for long. The second principle ensures we will know how and why every one of our health care dollars is spent.

Mr. President, before I explain what Health USA does and why it is needed, I want to say a few words about how this bill was developed. Health USA is a proposal by, for, and about Nebraskans. Its goals and its approach are the product of over 100 meetings, across 2½ years, with over thousands of Nebraskans, in dozens of towns. Its philosophy reflects input from Omaha to Ogallala. Its substance incorporates suggestions from Nebraska's farmers and doctors; insurance executives and policyholders; medical school faculty and parents; hospital administrators and hospital patients; Democrats and Republicans; young and old.

The goal of this process has been to spark a dialog among Nebraskans over what kind of health care financing system we want. Until there is informed consensus among the people in our States, there can be no informed progress here in Washington. And on such an important issue, I thought it better for Nebraska to put its fingerprints on the Nation than the other way around.

If it works in Nebraska, I believe it will work for the Nation. And I am convinced Health USA will work in Nebraska. It will work for Nebraska's businesses and their employees, 75 percent of whom work in firms with fewer than 100 employees, by giving them affordable coverage, predictable costs, and certainty of payment. Health USA will work for Nebraska's rural areas, for it steers medical personnel and facilities to rural areas, and provides targeted tax relief to small employers, like farms and suppliers, who are the backbone of our rural economy. Health USA will work for Nebraska's inner-city neighborhoods, like North Omaha, for it eliminates the financial barriers to prenatal care, immunizations, cancer screening, and other preventive procedures that can save lives and strengthen families. And Health USA will work for small towns and suburbs from the banks of the Missouri to the Nebraska sandhills, for it controls the explosion in health insurance rates that is lowering take-home pay and raising anxieties.

Since this bill came from the people of my State, I have told them I will not

push it here in Washington in the usual ways until they feel comfortable with it. I will not actively seek cosponsors. Nor will I ask Washington's interest groups to come to my office with proposed modifications that might garner their support. Rather, my plan is to keep working with the people of Nebraska—to hear their reactions and consider their modifications—until I am confident Nebraskans understand and endorse the details of this proposal. For this is an unfinished policy: A progress report on a dialog that will continue for some time until the moment of reform arrives.

But Mr. President, make no mistake about it, the moment of reform will arrive. Indeed, in my judgment, it is already long overdue.

This morninig we read in the Washington Post an article that described the potential increased cost for the Medicaid program.

It is now estimated by the Secretary of the Department of Health and Human Services [DHHS] that we will spend $200 billion by the year 2000 for Medicaid, a huge increase over the $72 billion we currently spend. That is more than we currently spend on Medicare, Mr. President. And, as I have examined Medicaid, it is altogether too obvious to me why the costs of that program are growing so rapidly. The sad and tragic reason, Mr. President, is because increasing numbers of working Americans who are turning to a welfare program to obtain health care services, because it is the only available way for them to take care of their families.

Mr. President, when I talk about the need for reform, I am not talking about the way we deliver health care in America. Our delivery system—the quality of our personnel; the effectiveness of our hospitals; the sophistication of our technology—these are the envy of the world. Our system of delivering health care has enhanced the value of life for millions of Americans, including myself.

But our system of financing health care is a different story, Mr. President. Our system of financing health care is a train wreck in progress. Instead of excessive speed, the culprit here is excessive cost. Our method of financing health care is simply out of control. It is fragmented, cumbersome, inefficient, bureaucratic, limited in accountability, and it has given us the most out-of-control heatlh costs in the world. In 1970, our Nation spent approximately 7 percent of our gross national product [GNP] on health care. By 1990, it was over 12 percent—over $650 billion. Sometime this decade, quite possibly by 1995, health care spending will surpass 15 percent of GNP or over a trillion dollars. Mr. President, in 1970, we spent $40 billion on health care.

And if the national costs are not sufficient to alarm us, we only need to look at the cost to business. And if the increase in the cost of business, particularly to small business, is not sufficient to alarm you, look at the cost to the individuals and track the increases in health care costs to increases in the number of Americans turning to Medicaid for health coverage, track that increase in health care costs to our Nation's dismal infant mortality rate, track that increase in heatlh care costs to low American productivity, Mr. President, and I believe you will have a sufficient amount of urgency to allow us collectively to overcome our resistance to change. For U.S. businesses, health costs have nearly quadrupled as a percent of prayroll since the 1960's, and grown from less than 10 percent of businesses' pretax profits to over half of those profits today.

These increases are simply unsustainable. They conjure up the image of some malignancy, relentlessly feeding off the body of its host. Our system of financing medical care is already doing harm to those it is meant to heal, as its growing cost eats away at worker paychecks, retiree savings, public budget, entrepreneurial initiatives, and U.S. competitiveness. It is hurting our Nation. It is hurting our businesses. And it is hurting our people, who are increasingly driven into the rolls of Medicaid, the ranks of the underinsured, or the wrenching anxiety of wondering how long their coverage will be affordable and how much they can depend on it when illness strikes.

For the Nation, for business, for individuals—these cost increases are simply unsustainable. How can our Nation invest enough in schools and roads and other improvements to make our economy more productive when rising health care costs devour 25 percent of each year's gains in GNP? How can our businesses compete when health costs here are 127 percent higher than Japan's and 91 percent higher than Germany's? How can our workers compete when millions of them are blocked from taking more productive jobs due to considerations about their health insurance?

And how can our entrepreneurs prosper in this kind of environment? Before I entered public life I started and operated some restaurants and health clubs. For small business owners like myself, these runaway health care costs can mean a choice between continuing to provide our employees with health care coverage, or continuing to provide them with jobs. Increasingly, we cannot afford to do both. And that is simply an unacceptable choice.

It is even becoming an unacceptable choice for those who have energetically opposed reform. The Wall Street Journal recently reported that when the late Chairman of the Republican National Committee, Lee Atwater, was diagnosed as having a brain tumor, the RNC's insurance carrier told the party to drop Mr. Atwater's coverage, or else it would triple the RNC's rates. The RNC did what hundreds of other less well-connected businesses have had to do. They cared about Mr. Atwater, and so they continued his coverage but changed insurance companies. But the new firm's premiums were higher, and now the new party chair, who is opposed to the reform I am proposing, laments that some of their younger, less well-to-do staffers cannot afford coverage. Well, they are not alone.

The status quo is unacceptable. The status quo means we will watch our Nation's health care costs soar, and will agonize as coverage correspondingly decreases. Businesses will pass along rising costs in the form of higher deductibles, higher copayments, reduced coverage, or by simply dropping health care benefits altogether. Politicians will pass along higher health care costs in the form of cutbacks in Medicare benefits and restrictions on Medicaid eligibility. Hospitals will pass along rising costs by passing along patients—literally, by telling patients without insurance that they must take their illness or their child's injury or their pregnancy to some other hospital that can afford to provide charity care.

As a result, fewer Americans will have health care coverage. Already, over 33 million lack any coverage; about as many are underinsured. One in six Americans reports their coverage has been reduced over the past 2 years. Millions who are insured live with a gnawing anxiety their coverage may disappear when they need it most. And when coverage evaporates, too many Americans forego tests or treatment that could lead to better health and lower treatment costs. Our system of financing health care puts very little premium on prevention. As a result, we have too many infants in neonatal intensive care units at thousands of dollars a day who might be home if their mothers had access to inexpensive prenatal care. We have too many women with breast cancer who might have had a chance to live longer if they had been able to afford a mammogram.

Medicaid, a program originally created for the poor, is now the source of health care for 27 million Americans. We read this week of Dick Darman's SWAT team that he dispatched to find out why so many Americans are getting health care through their local welfare office. The answer is obvious to all of us who are elected to serve the people: rising costs are driving more and more Americans away from work and into the waiting arms of a Medicaid case worker.

Increasing health care costs have decreased health care coverage. And decreasing health care coverage have increased costs. It is a vicious, deadly, unnecessary circle. It diminishes the

productivity of our people. It haunts families. It kills children. It shrinks our future.

Mr. President, I belive at the center of that circle is a third problem with our system of financing health care—a problem that links the rising costs and the diminishing levels of coverage. That third problem is the employment-based nature of our health care system. This is the real explanation for the train wreck. This is where the trains collide.

An employment-based system of financing health care requires hundreds of thousands of firms and insurers each to become experts on health care, to make decisions about benefit packages, to evaluate risk, to worry about costs and utilization, to process forms.

It means that the more than 20 million Americans who start a new job each year must wonder about whether their new firm offers health benefits and must wonder, as well, what will happen if their firm does not make it and they find themselves unemployed.

It means that the millions of Americans with pre-existing medical conditions must worry that no new firm or insurer will ever cover them, so they're locked into their job forever.

It means that new employees who get coverage must wade through stacks of forms and often risk weeks of no coverage while they wait for the new policy to take effect. It means that mothers on welfare often have an incentive to reject opportunities to work because it may mean losing the meager coverage she and her children receive under Medicaid.

Above all, an employment-based system of financing health care means we cannot control health care costs. It dilutes the incentives for any employer, insurer, or State to invest in prevention. It precludes our ability to decide how much of our national income we want to spend on health care, and it locks us into a two-tier system of care; one system for the employed and another for the poor, that guarantees degrading and inadequate care for some and cost shifting, risk skimming, and health care inflation for the rest.

Mr. President, in testimony given on June 18 at the House Committee on Government Operations, Dr. Katherine Swartz, a senior research associate at the Urban Institute, provided a very concise explanation of the perils of linking health care eligibility with employment. I recommend it to my colleagues who are struggling with this question and, Mr. President, I ask unanimous consent to include Dr. Swartz' statements at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. The three primary goals of Health USA are worth repeating, Mr. President. Cost control is the first, so we can free up billions of dollars for more productive purposes. The second is universal access, because such access is fair and essential to control health care costs. The third is to uncouple health care coverage from employment, to end job-lock, and increase the productivity of our workers and our economy.

Mr. President, I will not take up any more of the Senate's time explaining more of the details of how Health USA will work, the full details are in the bill itself.

Mr. President, the proposal's most fundamental feature is this. It finances the basic health care of all Americans and pays for that coverage with public funds which will replace most of our current health care insurance premiums and out-of-pocket health care expenses. This should not be seen as simply a new spending program. Indeed, as I have said, most Americans will pay less. It replaces health insurance premiums with payments to Federal and State health trust funds. It also replaces Medicare, Medicaid, and health programs for military personnel and civil servants.

But, Mr. President, Health USA is definitely not a free ride. The cost control mechanisms of Health USA are real, and they put upon the American people not only a new opportunity but a serious obligation to get involved in the discussion of how we are going to spend our resources and how we are going to allocate them. Politicians will not be provided with an incentive simply to say "yes" to every new request because people will see directly that every new request will add costs to their system, and every new cost will mean increased payments from them; payments, unfortunately, that are currently all too often disconnected from the American people.

It will increase costs on some businesses and individuals. But it will also decrease costs on many businesses and most individuals. It will highlight the responsibility each of us has to take care of our own health. It will require us to adjust to a new way of paying for health care, one that channels more health care spending through an institution—Government—about which we have well-founded reservations. But for most Americans this new way of paying will mean they pay less. And over time, it will be much less than what it will be if we continue with our current system of financing health care.

Health USA constitutes a declaration that the preferred way to control America's cost of health care is to do so directly. Direct budgeting allows Health USA to retain the best of our system while rejecting the worst. It rejects continued reliance on employment-based health benefits because such an approach cannot do enough to control costs. At the same time, it rejects the Canadian model of reform which would abolish private health insurance because that approach leaves too little room for competition, consumer choice, or creative and cost-saving management of care.

Let me briefly answer the key questions about the program I have heard from across Nebraska. The one that I hear the most often is how does this proposal control costs? I must say that I have heard of many proposals that assert they control health care costs. Usually the language is shaded just slightly. It will say this proposal has "mechanisms to control cost" or, it will "control costs of health care better."

Mr. President, Health USA will control costs because we will have the obligation to budget our health care spending. And every American can ask us if we are running for the Senate, can ask us if we are a candidate for the House of Representatives, can ask us if we are a candidate for President, or Governor, or for State legislatures: How much do you want to spend on health care? And we will be obligated to answer that question. Because we are obligated to answer the question we have the means to control health care costs.

There are several other ways that health care costs will be controlled under Health USA. There will be negotiated fee schedules and expenditure targets established for physicians. Hospitals will have budgets for patient care services. A process will be developed for capital budgets. Individuals will have cost-sharing obligations. Medical effectiveness research and the development of practice guidelines will be strongly supported. Administrative procedures will be simplified. And we will also stand at the plate and hit the ball of malpractice insurance, which must be addressed if we are going to get health care costs under control.

Mr. President, the second question is, Who is covered? Under Health USA, all Americans are covered for a comprehensive package of services including preventive and long-term care. Families and individuals will pay a $100 deductible, a small amount for each office visit, up to 20 percent of the cost of each procedure but no out-of-pocket expenses on preventive care, and in no case will a family face more than $2,000 a year for out-of-pocket costs.

The third question I hear is, How will Americans obtain their health care? Health care will continue to be provided as it is now, primarily through private hospitals, private physicians, and private health professionals who are affiliated with private health plans, such as fee-for-service programs, managed care programs, or health maintenance organizations [HMO's]. In each State, a wide variety of such plans will be operated by insurance companies, existing HMO's, or other private, public, or nonprofit organizations. Fami-

lies and individuals will choose the plan from which they want to obtain their coverage. No plan may discriminate against any applicant for any reason. Every year there will be an open enrollment period when people may switch to a new plan.

The fourth question is, Who will administer the plan? A National Health Commission will be created and each year it will recommend to Congress the level of health care spending required to fund the federally prescribed package of benefits. Funds will be distributed to State health programs on a capitated basis, that is, so much per person, with adjustments for the factors of each State's population that most affect health care spending such as age, sex, geographic dispersion of the State's population, and other factors.

Each State will be required to fund a portion of the basic benefits package, and may also decide to offer additional benefits if they are willing to finance them. The State program will then pay each of the health plans approved in that State a set amount for each person they have enrolled, with that amount again adjusted for the age, sex, and other relevant risk factors of the plan's enrollees. Each State will have separate accounts for acute and long-term care services and for investment in capital, education, and prevention.

The fifth question is, How will health plans operate and compete? It will be a market competition, but under changed rules. Insurers in other health plans will no longer be able to compete by skimming the healthiest and least expensive people, since no plan can reject any applicant. Plans will not compete on a promise to pay. That promise will have been predetermined. Rather, plans will compete for enrollees on the basis of service and quality. Plans that boast the best record of health outcomes, the best service, and the best amenities will attract more enrollees and thus more money from the State. At the same time, these plans will be forced to control utilization, administrative costs, and marketing expenses in order to stay within their budgets and maximize their profit margin. Any plan that overrestricts the utilization or scrimps on quality will drive its subscribers to a competing plan. Every plan will have a direct financial interest in finding ways to keep its subscribers healthy. This healthy and health-producing tension will provide the competitive environment in which insurers and other health plans operate.

The sixth question is, how will providers be paid? Under Health USA, as I noted above, there will be separate systems of negotiated fee schedules and binding expenditure targets for physicians, and budgets for hospitals. These will enable us to control health care costs directly, decisively, and they will do much more. They will enable us to improve the work environment for health professionals who increasingly hear their clinical decisions questioned by a new industry of third-party cost managers whose mission is to slash utilization. Health USA moves us away from a reliance on these invisible scrutinizers, and instead trusts health professionals to make the best decisions about quality and utilization within their overall fee schedules and budgets. For citizens, the cost control provisions offer both an opportunity and an obligation to participate in a decision about how much our Nation should spend on health care.

Mr. President, America's annual health care spending will no longer be a shocking number handed to us by a DHHS statistician at the year's end. Rather, it will be a number we democratically decide before the year begins. Candidates for office will be asked that level of spending and services they propose and voters will be able to see if the budget matches the promise, something we simply cannot do now.

The seventh question is, what will Health USA do to improve the availability of health care in rural America and in other medically underserved areas? The proposal establishes a resource development fund which States may use to provide financial incentives to providers in rural areas or to develop alternative ways of providing service in such areas. The proposal will also encourage the training of health professionals to these areas through the National Health Service Corps program, and through the use of a resource based relative value scale which will support the many family and general practitioners who are often the mainstay of physician care in difficult-to-serve areas. The proposal will also support other health professionals, including nurses, physician assistants, and others, who are crucial to the delivery of quality care in all areas, particularly rural areas.

The eighth question is, how will all this be financed? I have proposed one package of revenues in order to form the basis for discussion. The financing package starts by shifting over all Federal revenues currently devoted to medicare, medicaid, CHAMPUS, and civil service health benefits. It then adds revenues from a number of sources, the largest of which is a new 5-percent payroll tax of which 4 percent is paid by employers and 1 percent is paid by employees. This source is supplemented by an expansion of the wage base for the FICA payroll tax; a new top bracket and rate for nonwage income on the personal income tax; an increase in the corporate income tax; an increase in excise taxes; and States will be required to provide about 13 percent for the first year's cost of the program. They will meet the obligation by using the revenues they currently use to finance their share of Medicaid, supplemented by other sources.

States face the same problem that we do with Medicaid, but they face that problem with a slightly different set of circumstances. They cannot pay for their growing costs of Medicaid with the sale of bonds. For States, Mr. President, the growing costs of Medicaid must be paid for directly with tax dollars. Medicaid, Mr. President, is taking a larger and larger bite out of State budgets and diverting funds available for other important State functions.

Finally, Mr. President, one of the questions that comes most often is, does this mean that we are going to have more and bigger Government? I am prepared to argue—although I will not argue at length this morning—based upon experience with the current health care system and based upon what I believe we can have with Health USA, that we will get less Government than we will have with the status quo. More important, Mr. President, we have the opportunity to make sure that it is better Government; that we have Government do those things that it can do well and make sure it does not do those things that it cannot do well. We have the opportunity to make sure that we not only have less Government, but that we have good Government.

What does this all add up to, Mr. President? That is a difficult question to answer. Estimating the impact of this kind of program is a mammoth task, and few groups in Amnerica are equipped to undertake it. One group so equipped is Lewin/ICF, one of the Nation's premier health care consulting firms. I contracted with Lewin/ICF to estimate the cost and distributional implications of my plan.

Lewin/ICF estimates, in all, if fully implemented in 1991, this proposal would drive national health expenditures down from an estimated $651.6 billion to around $640 billion, a savings of over $11 billion. We would save $11.2 billion in administrative costs by budgeting health care, and I inject again for emphasis, Mr. President, this is not a free lunch.

In order to get this $11 billion in saving, there needs to be real cost control mechanisms. The American people will have, as I said, not just an opportunity, but an obligation, to do something that is seriously needed for the economic health of the United States of America as we increasingly try to compete with other nations on this Earth. We would save $21.5 billion through better management of care. And the combined $32.7 billion in savings would enable us to expand coverage to all Americans, which will cost about $15 billion, and extend an additional $6 billion of long-term care to the elderly and disabled Americans.

After saving America $11 billion in 1991, the savings would grow over time. In 1992, the savings would be $20.1 billion; by 1995, the annual savings would be over $55 billion, Mr. President. In all, from 1991 to 1995, our Nation would save a little over $158.5 billion in national health costs compared to the way we now finance health care and over $700 billion during this decade.

I say again, Mr. President, that if we wanted to, we could save more than that. This gives us the opportunity to decide how much we will spend and how much we want to save. It would give us, again, the obligation to do so. No longer will we be able to say it is this person who is causing the problem, and have that person point the finger down the line at the next, and that person point the finger down the line at the next, before it comes all the way around the circle back to us.

By having our national health care spending flow through our Government, we can make it flow in a much more efficient, equitable, predictable, and accountable way. For that reason, Mr. President, Americans will spend less.

The analysis of Lewin/ICF also tells us what the impact will be on America's average family. In general, families who earn $50,000 or less will spend about the same or less on health care. The average family with an income of between $15,000 and $20,000 will save about $1,000 in the first year. Average families with incomes between $20,000 and $40,000 will save about $500. In all, an estimated 50.2 percent of all American families will pay less under the first year of Health USA than they would under our current system of financing health care.

Finally, Mr. President, the analysis shows that businesses that currently insure their employees will pay less on average. Total savings to such firms will exceed $3 billion annually, an average savings of $77 per employee. Further, these firms will no longer have to bear the cost of analyzing and administering health care plans. They will no longer have to bear the uncertainty of health care cost increases that currently hampers business planning. And the many firms who face a staggering burden from the cost of health benefits for their retirees will now have that burden eased.

Mr. President, I do not mean to suggest that everyone will benefit. In certain parts of our economy, Health USA will unleash winds of creative disruption. Most firms who have not been insuring their workers will pay more, but, Mr. President, they should. Most health insurers will operate in a marketplace with different rules, but they must. And Americans everywhere will be forced to confront hard questions about our Nation's health care spending. Mr. President, that is a question we literally cannot afford to ignore any longer.

To those firms and individuals who have experienced this creative disruption, I will say what President Bush said when he asked us to give him fast-track authority on his trade negotiations. We now compete in an international marketplace and if we are going to try to lower the barriers of trade for business, we must try to lower the barriers for workers so they will not be penalized when they need to learn the new skills required by new technology, when they move from one job to another as a consequence of those jobs. We must lower the barrier for human beings, Mr. President, by providing them a right, access to health care, unrestricted by the locus of their employment.

I will say to those who experience this creative disruption, to look beyond the immediate disruption, to take a long-term view. Put the long-term national interest ahead of your own short-term interests. That is precisely what Health USA is all about, the national interest. It is about much more than how we pay doctors and hospitals. Fundamentally, it is about the kind of nation and future we want. It is about the kind of lives we want for ourselves, for our parents and for our children. I think Health USA will improve our lives and our Nation and I want to conclude my remarks by talking about three ways it will do that.

First, Health USA will change the life of every Member of Congress, every Governor, every State legislator, everyone who ever runs for President, and make each of us more responsive. Right now, we have all the wrong incentives as health policymakers. When we vote on health care policy, we make decisions only about the poor, or the disabled, or the elderly; we have little fear that our decisions will govern the way we, our spouses, or our children consume health care. When budgets get tight, we cut Medicaid and Medicare, and tell our voters that we have saved them money. In fact, as we know full well, we have simply shifted the health costs of the elderly and poor and disabled onto paying consumers in less visible ways.

Health USA stops that shell game. When we make decisions about what services to cover, we will be making decisions about our own families. We will be making decisions about all of our constituents, whether they make $20,000 or $20 million. When we are pushed by taxpayers to reduce costs, there will be no more hidden cost shifts. We will have to go to all our voters and ask what services they want and what they are willing to pay. Our constituents will press us hard to find new ways to reduce national health costs. And we may suddenly see them develop new interest in seat belts, air bags, bicycle helments, nutrition, alcoholism programs, violence prevention, basic medical research, and other efforts that can reduce health spending as they improve our lives.

Second, Health USA will change the way we function as workers and business owners. It will simply get health care out of business' way. Firms won't have to become health care experts in order to evaluate the plans they offer or negotiate with insurers. They will not have to get into fire-fights with their workers over cuts in health benefits. They will not have to worry about whether their premium costs will go up 10 percent or 100 percent next year. They will not have to worry about whether they will lose their coverage if they bring on a worker who happens to have a history of heart trouble. They will not have to fear that their contract obligations to retirees are going to wreck their balance sheet. They can spend more time inventing, investing, and producing.

America's workers will also be freed to strive to the limits of their ability. No worker will be dissuaded from going back to acquire new skills because he would lose his health coverage. No worker will be blocked from taking a better job because the health benefits are inferior or because a pre-existing medical condition would preclude a change in insurers. And while workers may never welcome changes in technology or trade that could threaten their jobs, at least they will not have to live in fear that such job displacement could leave their families exposed to medical indigency. In short, I genuinely see an economy that will feel different. It will feel more flexible. It will feel less anxious. It will feel more productive. Above all, it will be more prosperous.

Finally, Health USA will change the way we think about our health and our lives. The way we finance health care is not the biggest determinant of our health or longevity; other things are: our behavior, our genes, our jobs, even luck. These do the most to measure our days and negotiate our contract with mortality. Yet the way we pay for our health care makes a difference.

It makes a difference if a young woman can get prenatal care from any obstetrician in town. It may not guarantee she will stay healthier during those 9 months, but it makes a difference.

It makes a difference if the only barrier between a child and his measles or polio vaccination is the trip to the doctor's office. It may not guarantee a healthier life, but it makes a difference.

It makes a difference if a factory closing does not wipe out a community's health care coverage along with their jobs. It cannot make such closings painless, but it makes a difference.

It makes a difference if older Americans do not have to fear that going

into a mursing home might use up their children's life savings. It may not make aging easier; but it makes a difference.

It makes a difference if people understand that if their fellow citizens smoke cigarettes or consume excessive alcohol, then health costs will be higher and their taxes will go up. It may not guarantee society will change its values and rules; but it makes a difference.

"It makes a difference." Mr. President, how often in this Chamber can we say that with confidence? How often can we be sure that our efforts will improve the day to day lives of the vast majority of Americans? How often can we be certain that our actions will produce a better nation? Mr. President, on this proposal, I am very certain.

I am certain that if we do not fundamentally change our method of financing health care the trains will collide and the vast majority of our people will be caught in the middle. I am certain that if we don't adopt comprehensive reforms Americans will be increasingly dissatisfied with a health care system that costs them more and covers their needs less. I am certain that we can do better. I am certain America has arrived at a moment of challenge, and that Americans have the foresight and courage to rise to that challenge. I am certain that the people of Nebraska have helped me formulate a plan that can save us money, cover more Americans, improve our health, and make this a more productive nation. And I am certain, Mr. President, that the time to adopt it is at hand.

Mr. President, in my own life I had a moment when the Nation responded to my health care needs and, as a consequence of that response, I am personally aware of the change that it can make in your life to know with certainty that health care will be there for the rest of your life. In my case, my eligibility for health care occurred as a consequence of being disabled in the war in Vietnam.

Regardless of how the eligibility occurred, the eligibility is there, and it frees me, Mr. President, through the ups and downs in my life. It frees me, Mr. President, because I know that health care will be there.

I am not suggesting that the Government operate hospitals and hire the doctors as they do in my case. I know that such care sometimes is not as high quality as Americans want. I know that at times in that kind of care there are lines we have to wait in in order to get care. I am not suggesting that kind of care.

But, Mr. President and Members of this Senate, it works for me and it has liberated me and enabled me to live a life without fear that I will be denied health care when I need it the most. It is a generous Nation that responded to provide me with that care. It has not, Mr. President, produced a life of dependency upon my Government. Instead, it has produced a life of gratitude, of sincere gratefulness to a Nation that extended itself to help me when I needed it the most and when I was least likely to say thank you.

Not only do I stand and say thank you today, Mr. President, but I stand and say today let us do that for all Americans. Let us not make it a free lunch. Let us not make it so that we are disconnected from the responsibility to pay. But let us do it in a manner that liberates all of us from the fear of having health care not be there when we need it the most.

Mr. President, I ask unanimous consent that the text of the bill, the testimony of Dr. Swartz, the cost containment overview and a statement that outlines the overview of cost containment provisions be printed in the RECORD.

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

S. 1446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health USA Act of 1991".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and program goals.
Sec. 3. General definitions.

TITLE I—UNIVERSAL ELIGIBILITY AND ENROLLMENT

Sec. 101. Universal eligibility.
Sec. 102. Enrollment in approved plans.

TITLE II—BENEFITS AND PROVIDERS

Sec. 201. Covered health care services.
Sec. 202. Covered long-term care services.
Sec. 203. Provider standards.
Sec. 204. State approval of plans.

TITLE III—FINANCING

SUBTITLE A—BUDGET PROCESS

Sec. 301. National program budget.
Sec. 302. State program budgets.
Sec. 303. Payments to States.

SUBTITLE B—PAYMENTS TO APPROVED PLANS, PROVIDERS, AND CARE MANAGERS

Sec. 311. Payments to approved plans.
Sec. 312. Payments to providers under approved plans.
Sec. 313. Payments to institutional providers.
Sec. 314. Payments for practitioner services.
Sec. 315. Payments to care managers.

SUBTITLE C—SOURCES OF REVENUES

Sec. 331. Federal sources of revenues.
Sec. 332. State sources of revenues.
Sec. 333. Cost-sharing.
Sec. 334. National Health Care Trust Fund.

TITLE IV—ADMINISTRATION

Sec. 401. National Health Care Commission.
Sec. 402. State programs.
Sec. 403. State Commissions on Quality.
Sec. 404. Resource Enhancement Fund.

TITLE V—EFFECTIVE DATE; REPEALS; TRANSITION; RELATION TO ERISA.

Sec. 501. Effective date.
Sec. 502. Repeals.
Sec. 503. Transition.
Sec. 504. Relation to ERISA.

SEC. 2. FINDINGS AND PROGRAM GOALS.

(a) FINDINGS.—The Congress finds that—

(1) health care spending in the United States has grown at a rate that substantially exceeds the rise in the Nation's gross national product (GNP), and more specifically that—

(A) between 1965 and 1989, national health spending doubled, increasing from 5.9 to 11.6 percent of the GNP;

(B) national spending on health care has been increasing at a greater rate than the general cost-of-living index and the growth in the GNP for a number of years;

(C) in 1989, spending on health care was $604,000,000,000, an amount which exceeded the proportion of the GNP spent on health care by every other industrialized nation;

(D) the Nation's high relative expenditure on health care diminishes American incomes, productivity, and competitiveness in global trade;

(E) administrative, marketing, and liability costs are among those components of health care costs that have grown the fastest; and

(F) cost-shifting, the rising cost of insurance premiums, and declining coverage are leaving more Americans without access or without adequate access to important health services;

(2) a growing number of Americans are uninsured or inadequately insured to meet their health care needs, and more specifically that—

(A) all Americans have a right to at least a basic level of health care services that are continuously available and determined to be cost-effective;

(B) at least 33,000,000 Americans currently lack access to basic health services at any point in time; and

(C) it is estimated that during any 2-year period, approximately 25 percent of the nonelderly population of this Nation has neither health insurance nor public health care coverage for some period of time, and that an additional 13 percent of all Americans are underinsured for health care; and

(3) the growing costs of health care, coupled with declining access to services, represent a growing national problem, and more specifically that—

(A) despite growing expenditures on health care, health status indicators in the United States lag well behind those of other industrialized nations;

(B) studies indicate that persons who are uninsured or underinsured are less likely to receive adequate health care services;

(C) studies also find that insufficient access to health care services has a negative impact on health status and also increases health care expenditures in the longer term;

(D) the Nation's current system of financing health care is complex, confusing and frustrating to many Americans, including physicians and other providers of health care; and

(E) national expenditures on health care cannot continue to expand faster than inflation and the rate of national economic growth without endangering the country's domestic standard of living and international economic competitiveness.

(b) PROGRAM GOALS.—It is the policy of the Congress that the financing of the health care system of this Nation should reflect the following goals:

(1) The financing system should contain adequate measures to control health care

costs and expenditures with emphasis placed on the provision of appropriate and effective services.

(2) Administration of health care financing and methods of paying for health care services should be simplified and made more efficient.

(3) Access to an adequate level of effective and efficient health care services, including long-term care services, should be provided to all United States citizens and permanent residents to promote the health of the American people.

(4) To facilitate equitable access and meet cost control objectives, coverage should be provided in 1 universal health care financing program.

(5) To ensure universal and uninterrupted coverage of the population and to free employers from the administrative burden of providing coverage, health care coverage should be separated from employment.

(6) The population and professional providers should have the freedom of choice among a range of health care plans.

(7) To meet the broad health care needs of the population, it is necessary to establish an adequate system of financing comprehensive health care services that emphasizes the delivery of quality preventive, diagnostic, treatment, rehabilitative, and long-term care services.

(8) To improve the balance within the delivery system, greater emphasis should be given to primary and preventive care services.

(9) To further assure adequate access to health care services, the system should provide incentives for physicians and other health care professionals to locate and practice in rural and other medically underserved areas.

(10) To ensure that coverage is universal and that costs are equitably distributed, the financial burden for the program should be shared progressively, based on ability to pay.

(11) Revenues, from specifically dedicated and general taxes, should be sufficient to fund the Federal share of the program, including adequate reserves.

(12) The incidence and cost of professional liability, as they affect access to health care services and health care costs, should be addressed.

(13) Flexibility and responsiveness should be encouraged among State programs and local providers of health care services to provide quality, effective, and adequate care that recognizes local variations in medical needs and preferences.

(14) States should be encouraged to be innovative in the organization of health care services.

SEC. 3. GENERAL DEFINITIONS.

(a) IN GENERAL.—For purposes of this Act:

(1) The term "approved plan" means a public or private health services plan (whether offered by the State, an insurer, health maintenance organization, or other entity) which offers covered health care services or covered long-term care services, or both, approved under a State program under section 204.

(2) The term "Commission" means the National Health Care Commission established in section 401.

(3) The term "covered health care services" means those health care services specified in section 201.

(4) The term "covered long-term care services" means those long-term care services specified in section 202.

(5) The term "State program" means a State health care program approved under section 402.

(6) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(7) The term "Trust Fund" means the National Health Care Trust Fund established in section 334.

(b) OTHER DEFINITIONS.—Except as otherwise provided, the definitions contained in section 1861 of the Social Security Act (42 U.S.C. 1395x), as in effect on the day before the date of the enactment of this Act, shall apply in this Act.

TITLE I—UNIVERSAL ELIGIBILITY AND ENROLLMENT

SEC. 101. UNIVERSAL ELIGIBILITY.

(a) IN GENERAL.—Each individual who is a resident of the United States and is a citizen or national of the United States or lawful resident alien (as defined in subsection (c)) is eligible for covered health care services and covered long-term care services under the State program in the State in which the individual maintains a primary residence.

(b) TREATMENT OF CERTAIN NONIMMIGRANTS.—

(1) IN GENERAL.—The Commission may make eligible for covered health care services and covered long-term care services such classes of aliens admitted to the United States as nonimmigrants as the Commission may provide.

(2) CONSIDERATION.—In providing for eligibility under paragraph (1), the Commission shall consider reciprocity in health care and long-term care services offered to United States citizens who are nonimmigrants to other foreign states, and such other factors as the Commission determines to be appropriate.

(c) LAWFUL RESIDENT ALIEN DEFINED.—For purposes of this section, the term "lawful resident alien" means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, including an alien with lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act (8 U.S.C. 1160, 1161, or 1255a).

SEC. 102. ENROLLMENT IN APPROVED PLANS.

(a) ENROLLMENT PROCESS.—

(1) IN GENERAL.—Each State program shall specify an understandable and readily available process for the enrollment in approved plans of eligible individuals residing in the State. Such enrollments may occur by mail, at offices of the State program and other locations, or by other methods approved by the State program.

(2) OPEN-ENROLLMENT PERIODS.—Each State program shall establish at least 1 open-enrollment period each calendar year for the enrollment of eligible individuals in any approved plan serving the residential area of such individuals to the extent such plan has the capacity to provide services.

(3) DISENROLLMENT PROCEDURES.—Each State program shall provide an individual an opportunity to change an approved plan—

(A) during any open-enrollment period,

(B) if such individual is eligible for covered long-term care services and such individual's present approved plan does not provide coverage for such services, or

(C) as a resolution of a grievance filed by such individual under procedures established under section 402(b)(7).

(4) DEFAULT ENROLLMENT.—In the case of an eligible individual who otherwise is not enrolled in an approved plan under any State program, such individual shall be covered by the State-operated approved plan in the State in which such individual maintains a primary residence. The State shall provide a process for enrollment of the individual at the time and place in which the individual first is provided (after the effective date of benefits under this Act) covered health care services or covered long-term care services in the State-operated approved plan.

(5) ISSUANCE OF HEALTH SERVICES CARD.—Upon enrollment in an approved plan, each eligible individual shall be issued a health services card that indicates the approved plan in which the individual is enrolled.

(b) TREATMENT OF MARRIED INDIVIDUALS.—A State may not require married individuals to enroll in the same approved plan.

(c) TREATMENT OF MINOR DEPENDENTS.—In the case of an unmarried individual under 18 years of age, enrollment in an approved plan shall be effected, in a manner specified under each State program in accordance with guidelines of the Commission, by a parent or guardian of the child. Except in such cases as the Commission may provide, such enrollment shall be in the approved plan in which the enrolling parent or guardian is enrolled.

TITLE II—BENEFITS AND PROVIDERS

SEC. 201. COVERED HEALTH CARE SERVICES.

(a) IN GENERAL.—The covered health care services provided under this Act by each approved plan are as follows:

(1) HOSPITAL CARE.—Inpatient and outpatient hospital care, including 24-hour a day emergency services.

(2) PHYSICIAN SERVICES AND OTHER PROFESSIONAL MEDICAL SERVICES.—Physician services and professional services of other health care professionals who are authorized to provide health care services under State law.

(3) TESTS.—Diagnostic and screening tests and procedures.

(4) PRESCRIPTION DRUGS.—Prescription drugs incidental to physician services and other professional medical services.

(5) PREVENTIVE HEALTH CARE SERVICES.—As defined by the Commission:

(A) Basic immunizations.

(B) Pre-natal and post-natal care (including home visitation services).

(C) Well-baby care (for infants under 1 year of age).

(D) Well-child care (including periodic physical examinations, hearing and vision screening, and developmental screening and examinations) for individuals under 18 years of age.

(E) Periodic screening mammography, Pap smears, and colorectal examinations and examinations for prostate cancer (according to guidelines adopted by the Commission on recommendations by the National Advisory Board established in section 401(j)).

(F) Family planning services.

(G) Health education and promotion services designed to prevent or minimize the effect of illness, disease, or medical condition.

(H) Such other health care services as are found to be effective in preventing or minimizing the effect of illness, disease, or medical condition.

(6) MENTAL HEALTH CARE SERVICES.—Diagnosis, evaluation, treatment, and crisis intervention for a mental illness, subject to an annual limitation of 45 inpatient days and 25 outpatient visits.

(7) DRUG AND ALCOHOL ABUSE TREATMENT PROGRAMS.—Drug and alcohol abuse treatment services provided under a treatment program approved by the State and through provider organizations that meet State qualification standards, subject to an annual lim-

itation of 45 inpatient days and 25 outpatient visits.

(8) HOSPICE CARE.—Hospice care for individuals certified to be terminally ill, including care-management services, provided by a hospice program approved by the State.

(9) POST-HOSPITAL SKILLED NURSING FACILITY SERVICES.—Post-hospital skilled nursing services and home health care services.

(10) OTHER MEDICAL AND HEALTH CARE SERVICES.—Other medical and health care services specified by the Commission, including the following:

(A) Services and supplies incidental to the provision of physician services.

(B) Hospital services incidental to physician services rendered to outpatients.

(C) Experimental treatments, as reviewed by the appropriate technical advisory committee (established in section 401(j)(8)(A)) and authorized by the Commission or a State program.

(D) Outpatient physical therapy services, outpatient speech pathology services, and outpatient occupational therapy services.

(E) Health care clinic services, including rural health care clinic services.

(F) Home dialysis supplies and equipment.

(G) Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests.

(H) Radiation (and related) therapy.

(I) Durable medical equipment used in the patient's home.

(J) Ambulance service, to the extent provided in regulation.

(K) Prosthetic devices which replace all or part of an internal body organ (including lens after cataract surgery), including replacements of such devices.

(L) Leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including necessary replacements.

(M) Hearing aids, upon a determination of a certified audiologist or physician that a hearing problem exists and is caused by a condition that can be corrected by use of a hearing aid.

(b) LIMITATIONS ON AMOUNT, DURATION, AND SCOPE.—

(1) NO LIMITS IN GENERAL.—Except as provided in this section and section 333, an approved plan may not limit the amount, duration, or scope of covered health care services.

(2) LIMITATIONS DETERMINED BY COMMISSION.—The Commission may limit, and may allow State programs to limit, the duration or scope of specific covered health care services if—

(A) such limitations are in accord with the prevailing medical practice guidelines,

(B) such limitations are necessary to allocate expenditures in a manner that will optimize improvements in the health and well being of the population, and

(C) adequate provisions are made to allow reasonable exceptions to such limitations.

(3) LIMITATIONS ON SERVICES PROVIDED OUTSIDE THE STATE.—Covered health care services shall not include items and services not provided within the State of the individual's residence, except for—

(A) emergency hospital care or physician services available in any other State or country while the individual is temporarily visiting such State or country,

(B) any item or service available from a provider in a neighboring State if—

(i) the provider is closer to the individual's residence than a provider in the State of the individual's residence, or

(ii) such State and the State of the individual's residence have established a reciprocal provision of care relationship, and

(C) emergency hospital care or physician services available in Canada or Mexico if the hospital or physician is closer to the individual's residence than a hospital or physician in the United States.

(4) COSMETIC SURGERY EXCLUDED.—Covered health care services shall not include cosmetic surgery, unless—

(A) required to correct a congenital anomaly,

(B) required to restore or correct a part of the body which has been altered as a result of accidental injury, disease, or surgery, or

(C) determined to be medically necessary by the State program.

(c) ADDITIONAL SERVICES.—Nothing in this section shall be construed as limiting the health care services that an approved plan may provide.

(d) NO DUPLICATE PRIVATE INSURANCE.—Private insurance for health care services may be sold in a State only for services not covered under the State program of such State.

(e) STATE-FINANCING OF SUPPLEMENTAL SERVICES.—There is no Federal financing available under this Act for health care services other than covered health care services.

SEC. 202. COVERED LONG-TERM CARE SERVICES.

(a) IN GENERAL.—The covered long-term care services provided under this Act by each approved plan (either as separate coverage or as part of the coverage for covered health care services) are institutional services, noninstitutional services, and respite care services for the health, social, and personal needs of individuals with limited self-care capabilities in order to promote the maximum functional independence of such individuals.

(b) INSTITUTIONAL SERVICES.—For purposes of subsection (a), institutional services are items and services provided to an individual while residing in a nursing facility meeting the minimum requirements established by the Commission and approved for operation by the State program. Such services are as follows:

(1) Nursing care provided by or under the supervision of a registered professional nurse.

(2) Bed and board in connection with the furnishing of supervised residential services.

(3) Physical, occupational, or speech therapy.

(4) Medical social services.

(5) Drugs, biologicals, supplies, appliances, and equipment as are ordinarily furnished for the care and treatment of inpatients.

(6) Other services necessary for the health of patients and generally provided by chronic nursing facilities.

(c) NONINSTITUTIONAL SERVICES.—For purposes of subsection (a), noninstitutional services are home and community-based care services provided to an individual to enable the individual to remain in such individual's place of residence within the community. Such services shall include the following:

(1) Homemaker services, including meals.

(2) Home health aide services.

(3) Heavy chores.

(4) Adult day health care, social day care or psychiatric day care.

(5) Home mobility aids and minor adaptions to the home that promote independence (railings, ramps, special toilets).

(6) Medical social work services.

(7) Community mental health services, therapy services, and nursing services.

(8) Physical, occupational or rehabilitative services to preserve and restore functional capability or prevent further deterioration.

(9) Transportation services to and from health and social services.

(10) Nutrition and dietary counseling provided by or under the supervision of a qualified dietitian.

(11) Other services as determined by the Commission and authorized by the care manager.

(d) RESPITE CARE SERVICES.—For purposes of subsection (a), respite care services are institutional or noninstitutional services to provide temporary relief to an individual's primary caregiver who is a relative or friend of such individual. Such services may not exceed 30 days or 720 hours per calendar year and are as follows:

(1) Companion, day care, and homemaker services.

(2) Training for informal caregivers.

(e) DETERMINATION OF NEED.—

(1) IN GENERAL.—Individual needs shall be determined by care managers through standardized assessments of the individual's abilities for self-care, including—

(A) medical examinations necessary to determine the level of medical care (if any) that is required, and

(B) environmental and psychosocial evaluations to determine the physical and mental abilities of the individual.

Such assessments shall be conducted pursuant to criteria established by the Commission (subject to modification by the State with approval by the Commission).

(2) TYPE OF SERVICES.—The assessment described in paragraph (1) shall include a determination by the care manager whether institutional services, noninstitutional services, or respite care services are required. Such determination shall be based on the following:

(A) INSTITUTIONAL SERVICES.—The individual's inability to perform at least 3 ADLs (of which 2 must be described in clauses (iii), (iv), or (v) of paragraph (4)(A)) or a similar level of disability due to cognitive impairment.

(B) NONINSTITUTIONAL SERVICES.—The individual's inability to perform at least 3 ADLs or 3 IADLs (without substantial assistance from another individual) or similar level of disability due to cognitive impairment.

(C) RESPITE CARE SERVICES.—The degree to which the individual, on a daily basis, is dependent on a primary caregiver who is living with or assisting the individual without monetary compensation and is providing assistance to the individual in at least 3 ADLs or IADLs or a similar level of disability due to cognitive impairment.

(3) PLAN OF CARE.—The care manager shall develop a plan of care for an individual in consultation with the individual, family members, or other informal caregivers, and based on the assessment described in paragraph (1). The individual shall be eligible for only those covered long-term services included in the plan of care.

(4) DEFINITIONS.—For purposes of this subsection—

(A) ADLs.—The term "ADLs" means activities of daily living, including such basic self-maintenance activities as (i) bathing, (ii) dressing, (iii) toileting, (iv) eating, (v) transferring from bed to chair, (vi) exiting outside, and (vii) walking.

(B) IADLs.—The term "IADLs" means instrumental activities of daily living, including such activities as (i) cooking, (ii) cleaning, (iii) shopping, (iv) taking medications, (v) doing laundry, (vi) making telephone calls, and (vii) managing money.

(f) CARE MANAGEMENT.—Covered long-term care services shall include coordination by the care manager of such services with the provision of covered health care services to

enable an individual to remain safely in the least restrictive setting.

(g) REASSESSMENT.—Reassessment of the individual's needs shall be conducted by a care manager at appropriate intervals, but not less than annually in the case of an individual receiving institutional services and semiannually in the case of individual receiving noninstitutional or respite care services.

(h) LEAST RESTRICTIVE SETTING.—In providing covered long-term care services under an approved plan, a State program shall encourage and reimburse noninstitutional long-term care where appropriate, as determined by the assessment process, to allow individuals needing long-term care to remain safely in their homes to the maximum extent possible.

(i) ADDITIONAL SERVICES.—Nothing in this section shall be construed as limiting the long-term care services that an approved plan may provide.

(j) NO DUPLICATE PRIVATE INSURANCE.—Private insurance for long-term care services may be sold in a State only for services not covered under the State program of such State.

(k) STATE-FINANCING OF SUPPLEMENTAL SERVICES.—There is no Federal financing available under this Act for long-term care services other than covered long-term care services.

SEC. 203. PROVIDER STANDARDS.

(a) IN GENERAL.—The Commission shall prescribe rules similar to the rules provided in section 1866 of the Social Security Act (42 U.S.C. 1395cc), as in effect on the day before the date of the enactment of this Act, with respect to conditions of participation for health care providers in State programs.

(b) ADDITIONAL CONDITIONS FOR PROVISIONS OF CERTAIN SERVICES.—In the case of high-risk, high-cost, elective, or over-utilized items or services, specified by the Commission, for which payment may otherwise be made under this Act, the Commission, or State program, may restrict coverage of such items or services to a provider—

(1) that is certified by an appropriate specialty board in the relevant medical specialty, or

(2) that is adequately equipped and staffed (in accordance with regulations of the Commission) to furnish the items or services, or

(3) that is both.

(c) CARE MANAGEMENT SERVICES.—The Commission shall prescribe standards for care managers providing services with respect to covered long-term care services. Such standards shall be sufficiently flexible—

(1) to allow State programs to provide care management services or to contract with private nonprofit organizations or agencies to provide such services.

(2) to insure that such managers are independent of approved plans or other care providers.

(3) to allow individuals such as nurses, social workers, or other medical or social welfare professionals to be care managers, and

(4) to allow State programs to provide care managers with the responsibility for monitoring the adequacy and quality of care provided.

SEC. 204. STATE APPROVAL OF PLANS.

(a) IN GENERAL.—Each State program shall provide for the review and approval or disapproval of health services plans as approved plans in the State for purposes of this Act.

(b) REQUIREMENTS.—A State may not approve a health services plan as an approved plan under its State program unless the State finds that the plan—

(1) provides services at least equal to covered health care services or covered long-term care services, or both, for the capitation payment determined by the State program under section 311 and any copayments allowed under section 333,

(2) provides for services of an acceptable quality (as determined by the State program),

(3) provides for enrollment of eligible individuals in a manner consistent with section 102,

(4) does not discriminate in its enrollment and provision of benefits on the basis of race, ethnicity, religion, sex, marital status, type of occupation, disability or health condition, or other impermissible basis (as specified by the Commission),

(5) provides for simplified procedural requirements,

(6) provides for an approved orientation for new enrollees,

(7) provides for establishment of budgets and payments for services in a manner consistent with this Act,

(8) provides for payment of services rendered to enrollees of such plan by providers in another State or country as described in section 201(b)(3), at reimbursement rates established by such State or country,

(9) provides for economic operation and administration of the State program,

(10) provides for information and data systems as specified by the Commission and State program,

(11) provides for accountability, including an advisory committee of enrollees in such plan who have adequate access to information and data (including financial records) of such plan,

(12) establishes a responsive grievance procedure for the receipt and resolution of grievances concerning the enrollment of individuals and delivery of services under this Act, and

(13) meets such other requirements as the Commission may specify to insure against fraud and abuse under this Act.

(c) STATE-OPERATED APPROVED PLAN.—

(1) IN GENERAL.—Each State program shall establish at least 1 approved plan operated by the State program, that will meet the requirements of subsection (b), provide payment for experimental treatments as described in section 312(e)(3), and be available to any eligible resident of the State not enrolled in another approved plan.

(2) COST CONTAINMENT MEASURES.—

(A) IN GENERAL.—Each State-operated approved plan shall control costs in a manner that does not impede appropriate use of covered health care services and covered long-term care services and does not intrude on clinical decision making by health care providers who follow accepted standards of practice. The cost containment measures shall include—

(i) negotiated fee schedules,

(ii) negotiated expenditure targets or caps, and

(iii) certain specialty services directed to certain types of providers.

(B) ALTERNATIVE MEASURES.—If the cost containment measures described in subparagraph (A) are inadequate, the State-operated approved plan may institute any or all of the following measures:

(i) Cost-sharing for services (subject to the requirements of section 333).

(ii) Controls on utilization ordered by providers, including concurrent utilization review, pre-procedure certification, and other methods as necessary.

(3) WAIVER.—The State program may apply to the Commission for a waiver to contract with a private approved plan to fulfill the State's responsibilities for administration of the State-operated approved plan. Any contractor and contractual arrangement must fulfill the following criteria:

(A) The contractor must provide—

(i) payment for individuals enrolled in the plan,

(ii) payment for individuals not enrolled in any other approved plan, and

(iii) payment for experimental treatments for persons enrolled in any plan as described in section 312(e)(3).

(B) The State program and the contractor must demonstrate that the alternative arrangements would—

(i) be administratively as efficient as a State-operated approved plan, and

(ii) provide access to quality health services at least equal to a State-operated approved plan.

(d) LIMITED PLANS.—Notwithstanding subsection (b)(1), a State program may contract with and approve a health services plan which provides limited services (including either covered health care services or covered long-term care services) as part of a coordinated provision of full services in order to assure quality or convenience to a local population.

(e) WITHDRAWAL OF APPROVAL.—If a State determines that a health services plan that has been previously approved no longer meets the requirements of an approved plan, the State shall withdraw approval of the plan and shall provide a procedure whereby individuals enrolled in the plan may be enrolled in other approved plans.

TITLE III—FINANCING

Subtitle A—Budget Process

SEC. 301. NATIONAL PROGRAM BUDGET.

(a) IN GENERAL.—The Commission shall recommend to the Congress an annual fiscal year budget of expenditures which estimates the total expenditures to be made in such fiscal year by States and the Federal Government for covered health care services, covered long-term care services, and care management services under this Act (including administrative costs).

(b) NATIONAL AVERAGE PER CAPITA COSTS.—

(1) IN GENERAL.—At least 5 months before the beginning of the first fiscal year of the program under this Act, the Commission shall compute the national average per capita cost for each of the services described in subsection (a) using data from the national health accounts of the Office of National Cost Estimates of the Office of the Actuary of the Health Care Financing Administration, and other available data.

(2) ADJUSTMENTS FOR RISK GROUPS.—

(A) IN GENERAL.—The Commission shall develop an adjustment factor to the national average per capita costs computed under paragraph (1) for each risk group (as designated under subparagraph (B)) to reflect the national average per capita costs for that risk group.

(B) RISK GROUPS.—The Commission shall designate a series of risk groups, determined by age, sex, and other factors that represent distinct patterns of health care services and long-term care services utilization and costs.

(3) STATE ADJUSTMENTS TO NATIONAL AVERAGE PER CAPITA COSTS.—The Commission shall develop for each State a factor to adjust the national average per capita costs for each risk group to reflect—

(A) average labor and nonlabor costs that are necessary to produce the services described in subsection (a),

(B) any special social, environmental, or other condition affecting health status or the need for health care services or long-term care services,

(C) the geographic distribution of the State's population, particularly the proportion of the population residing in rural or medically underserved areas, and

(D) any other factor.

(c) STATE TOTAL EXPENDITURES.—The Commission shall compute for each State total projected expenditures for each of the services described in subsection (a) by multiplying the national average per capita costs of each risk group designated in subsection (b)(2)(B) by the State adjustment factors described in subsection (b)(3) by the number of persons in the State estimated by the Bureau of the Census to be resident members of each risk group.

(d) FEDERAL CONTRIBUTIONS.—The Commission shall recommend to the Congress the appropriate Federal contribution for each State. The Federal contribution shall be determined by subtracting the State share from 100 percent of the expenditures for such State (as described under subsection (c)), but in no event shall such Federal contribution be less than 82 percent nor more than 92 percent of such expenditures. The Federal contribution for all States shall equal 87 percent of the aggregate of such expenditures for all States. In determining each State share, the Commission shall recommend to the Congress a formula that considers a State's per capita income or other relevant economic indicators.

(e) SUBSEQUENT CALCULATIONS.—For each subsequent fiscal year, the Commission shall recompute under subsections (a), (b), (c), and (d) at least 5 months before the beginning of such fiscal year. In making such a recomputation, the Commission shall take into account—

(1) changes in medical technology, research evidence concerning the efficacy and safety of health care services and long-term care services, needs for health personnel, and professional practice, after reviewing recommendations of the National Advisory Board, and

(2) changes in the services described in subsection (a).

SEC. 302. STATE PROGRAM BUDGETS.

(a) IN GENERAL.—Each State program shall establish an annual fiscal year State program budget which provides for—

(1) the expenditures to be made under the State program in such fiscal year for covered health care services, covered long-term care services, and care management services under this Act (including prevention expenditures, capital costs, and administrative costs), and

(2) the revenues to meet such expenditures.

(b) COORDINATION.—Each State program budget shall be coordinated, in a manner specified by the Commission, with the national program budget established under section 301(a).

(c) STATE SHARE.—Each State program shall cover the State share of program costs through the use of tax revenues and copayments allowed under section 333.

(d) ANNUAL PUBLICATION.—The State shall provide for the publication annually of the most recent State program budget established under this section.

SEC. 303. PAYMENTS TO STATES.

(a) IN GENERAL.—Each State with an approved State program under section 402 of this Act is entitled to receive, from amounts in the Trust Fund, an amount equal to the product of (1) the average number of residents of the State, and (2) the annual Federal share of the average per capita costs for such State (computed under section 301).

(b) USE OF CARE FUNDS.—

(1) IN GENERAL.—All revenues (including State revenues) provided to finance a State program under this Act shall be deposited into a Care Fund for the State. Payments to approved plans and care managers shall be made from such Fund.

(2) SPECIAL ACCOUNTS.—Each State shall establish within its Care Fund special accounts, the amount of revenues deposited in each to be determined by the State program under the State program budget. The various special accounts shall include the following:

(A) PREVENTION ACCOUNT.—A Prevention Account shall be used for community-based disease prevention, health promotion, farm and occupational health and safety, or other programs and will be targeted to populations with particular health care needs. Programs should fund innovative, community-based programs and services that reduce or eliminate illness and disability or provide outreach to underserved populations, rather than funding medical or clinical services that are the responsibility of approved plans.

(B) CAPITAL ACCOUNT.—A Capital Account shall be used in designated local areas according to a formula based on (i) population size and geographic dispersion, (ii) population mix identified by factors used to establish risk-adjusted capitation payments, (iii) capital needs to ensure adequate access to general and specialty services and technologies and to ensure medical effectiveness, and (iv) other factors as determined by the State program. Funds in a Capital Account may also be used to support the development of approved plans by nonprofit and public agencies. Capital obligations in effect at the inception of the State program may be approved for assistance by the State program. The State program shall determine the procedures by which the capital funds will be distributed to local institutions and organizations. Each State is encouraged to make local planning processes involving health care providers and consumers a central part of the capital allocation procedures. Reimbursements to providers for covered health care services and covered long-term care services shall not include capital assistance.

(C) EDUCATION AND RESEARCH ACCOUNT.—An Education and Research Account shall be used to encourage and fund research and teaching activities in patient care settings. The State program shall designate funds to be allocated to major and minor teaching hospitals and other facilities for excess operating and capital costs associated with teaching and research activities. Each State is encouraged to use such funds to meet national, regional, and local health care needs, particularly training of health professionals to meet manpower needs.

Subtitle B—Payments to Approved Plans, Providers, and Care Managers

SEC. 311. PAYMENTS TO APPROVED PLANS.

(a) COMPUTATION OF ADJUSTED AVERAGE PER CAPITA COST.—Based on a methodology established by the Commission, each State program shall compute an adjusted average per capita cost for covered health care services and covered long-term care services under the program in the State for different classes of individuals. Such adjusted average per capita cost shall reflect the average per capita level of expenditures that the State estimates (based on actual experience or actuarial equivalent, with appropriate adjustments to assure actuarial equivalence) is required to provide for expenditures in the State for services (and related administrative costs) under the State program. Such adjusted average per capita cost shall be computed for individuals based on age, sex, regional cost differences, local areas with disproportionate low-income populations, and such other factors as will assure actuarial equivalence and otherwise provide for equitable distribution of funds to approved plans. The State program shall negotiate adjustment factors with the relevant health services associations and the approved plans in the State.

(b) PAYMENT TO PLANS.—

(1) IN GENERAL.—Each State program shall provide for payment to approved plans, for individuals enrolled under this Act, on a monthly basis in an amount equal to the adjusted average per capita cost computed under subsection (a) with respect to such individuals. The program may provide for retroactive adjustment in such payments to take into account any difference between the actual number (or composition) of individuals enrolled under the plan and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(2) STATE-OPERATED APPROVED PLANS.—

(A) IN GENERAL.—In determining the number of individuals estimated to be enrolled in the State-operated approved plan for purposes of paragraph (1), the State program shall include all individuals who maintain a primary residence in such State and have not enrolled in another approved plan in the State.

(B) ACCOUNTING OF PAYMENTS.—The State-operated approved plan shall maintain separate accounting of payments received on behalf of State residents not enrolled in any other approved plan and for experimental treatments.

(C) UNUSED PAYMENTS.—Any payments made to the State-operated approved plan for State residents not enrolled in any other approved plan or for experimental treatments, that are not used for these purposes, are to be returned to the State program at the end of the plan year.

SEC. 312. PAYMENTS TO PROVIDERS UNDER APPROVED PLANS.

(a) IN GENERAL.—Each State program shall provide for the payment of providers by approved plans in a manner consistent with this subtitle.

(b) MANDATORY ASSIGNMENT.—Each provider of services or other practitioner that receives funding under this Act agrees to accept the payment amount recognized under the State program for services covered under the program as payment in full for such services and may not impose any charges for such services other than those permitted with respect to such services under section 333.

(c) CONTINUUM OF CARE.—The Commission, in order to avoid fragmented care, shall develop financial incentives, in the payment methods provided under this subtitle, to promote a continuum of care.

(d) DIRECT PAYMENT FOR HEALTH PROFESSIONALS.—A State program shall require approved plans that pay for most health care services on a fee-for-service basis to provide for direct payment to physicians and other health care professionals who are authorized to provide health care services under State law.

(e) PAYMENTS BY STATE-OPERATED APPROVED PLANS.—A State-operated approved plan shall pay providers—

(1) for the care of all individuals enrolled in the such plan,

(2) for all eligible individuals in such State who do not enroll in any other approved plan, and

(3) for the costs of approved experimental treatments for all individuals who meet the criteria of treatment protocols, regardless of the approved plan in which such individuals are enrolled.

SEC. 313. PAYMENTS TO INSTITUTIONAL PROVIDERS.

(a) DIRECT PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), payment for institutional care, including hospital services and nursing facility services, shall be made directly to each institution by each State program, or its State-operated plan, under an annual prospective budget negotiated with each institution and consistent with the State program budget under section 302.

(2) EXCEPTION FOR INSTITUTIONS OWNED BY APPROVED PLANS.—In the case of institutional care provided by an institution owned by an approved plan, payment for such care shall be made to the plan.

(b) PAYMENTS.—Payments shall be made periodically, based on the annual operating budget, or per diem or per admission, based on annual operating budget targets. Per admission or per diem costs which exceed such budget targets shall be reimbursed at marginal costs.

(c) PLAN CHARGES.—Each approved plan shall be charged the full or partial costs for institutional care of plan enrollees based on the number of admissions or hospital days, multiplied by the average cost per admission or hospital day.

(d) WAIVERS.—The Commission may waive the requirement of subsection (a) in the case of a State, but only if the State demonstrates that the payment methodology used will not result in expenditures exceeding those provided under the State program budget.

SEC. 314. PAYMENTS FOR PRACTITIONER SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, payment for services by physicians and other individual health care personnel shall be based on payment schedules established by each State program. Such schedules—

(1) shall be established after negotiations with organizations representing physicians and such personnel,

(2) shall be based on a national relative value scale, developed by the Commission taking into account the relative value scale developed under section 1848 of the Social Security Act (42 U.S.C. 1395w-4), as in effect on the day before the date of the enactment of this Act,

(3) shall be in amounts consistent with the State program budget adopted under section 302 and with the expenditure targets defined by the State program for groupings of physicians and other individual health care personnel defined by specialization and geographic area (as determined by the State program),

(4) shall be multiplied by a factor to make total expenditures for services of physicians and other individual health care personnel consistent with expenditure targets determined in paragraph (3) for approved plans that pay such personnel based upon such schedules, and

(5) shall base future fee increases for each target group of physicians and individual health care personnel to the extent expenditures for such group are kept within the target for such group.

(b) PRACTICE PROFILES.—Each State program shall develop and provide individual practice profiles for physicians and other individual health care personnel, as well as comparison profiles for the average of the physicians or such personnel in each expenditure target group. Such profiles shall also be provided to each negotiating organization representing physicians and such personnel to help each organization aid its members in keeping expenditures in line with such targets.

(c) ALTERNATIVE PAYMENT MECHANISMS.—Approved plans that pay physicians and other individual health care personnel by capitation methods, annual salary, or hourly payments are exempt from the fee schedules and expenditure targets adopted under subsection (a), as long as the amount of payments under such methodologies do not exceed, in the aggregate, the amount of payments that would otherwise be made under the methodology described in subsection (a).

(d) PAYMENTS BY STATE-OPERATED PLANS.—At least one State-operated plan in each State shall pay for services by physicians and other individual health care personnel under the methodology described in subsection (a).

SEC. 315. PAYMENTS TO CARE MANAGERS.

(a) IN GENERAL.—Payment for care managers shall be made directly by each State program pursuant to payment schedules under an annual prospective budgeting system established by the State consistent with the State program budget established under section 302.

(b) PAYMENT SCHEDULES.—The payment schedules may be based on negotiations between the State program and care management agencies, capitation, or other methods.

(c) MANDATORY ASSIGNMENT.—Each care manager that receives funding under this Act agrees to accept the payment amount recognized under the State program for services covered under the program as payment in full for such services and may not impose any charges for such services.

Subtitle C—Sources of Revenues

SEC. 331. FEDERAL SOURCES OF REVENUES.

(a) PAYROLL TAXES.—

(1) TAX ON EMPLOYEES.—Section 3101 of the Internal Revenue Code of 1986 (relating to rate of tax on employees) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and by inserting after subsection (b) the following new subsection:

"(c) HEALTH USA INSURANCE.—

"(1) IN GENERAL.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on the income of every individual a tax equal to 1 percent of the wages (as defined in section 3121(a)) received by such individual after December 31, 1992, with respect to employment (as defined in section 3121(b)).

"(2) EMPLOYER'S ELECTION TO PAY EMPLOYEES' TAX.—During any period in which there is in effect an election by an employer to pay the tax otherwise imposed under paragraph (1), wages received by or paid to an individual as an employee of such employer shall be exempt from the tax imposed by such paragraph.".

(2) TAX ON EMPLOYERS.—Section 3111 of such Code (relating to rate of tax on employers) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) HEALTH USA INSURANCE.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on every employer an excise tax, with respect to having individuals in such employer's employ, equal to 4 percent (5 percent, if an election is in effect as described in section 3101(c)(2)) of the wages (as defined in section 3121(a)) paid by such employer in excess of $30,000 during each calendar year beginning after December 31, 1992, with respect to employment (as defined in section 3121(b)).".

(3) TAX ON SELF-EMPLOYMENT INCOME.—

(A) IN GENERAL.—Section 1401 of such Code (relating to rate of tax on self-employment income for hospital insurance) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) HEALTH USA INSURANCE.—In addition to the taxes imposed by the preceding subsections, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 5 percent of the amount of the self-employment income for such taxable year.".

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 1402(b) of such Code (defining self-employment income) is amended by inserting "($30,000 with respect to the tax imposed under section 1401(c))" after "$400".

(4) RAILROAD RETIREMENT TAXES.—Sections 3201(a), 3211(a), and 3221(a) of such Code (relating to tier 1 taxes) are each amended by striking "subsections (a) and (b)" each place it appears and inserting "subsections (a), (b), and (c)".

(5) ELIMINATION OF LIMIT ON WAGES OR SELF-EMPLOYMENT INCOME SUBJECT TO HEALTH USA INSURANCE TAX.—

(A) IN GENERAL.—Subsection (x) of section 3121 of the Internal Revenue Code of 1986 (relating to applicable contribution base) is amended by adding at the end thereof the following new paragraph:

"(3) HEALTH USA INSURANCE.—For purposes of the taxes imposed by sections 3101(c) and 3111(c), the applicable contribution base for any calendar year is equal to the remuneration for employment paid to an individual for such calendar year.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (k) of section 1402 of such Code (relating to applicable contribution base) is amended by adding at the end thereof the following new paragraph:

"(3) HEALTH USA INSURANCE.—For purposes of the tax imposed by section 1401(c), the applicable contribution base for any calendar year is equal to the individual's net earnings from self-employment for such calendar year.".

(ii) Clause (i) of section 3231(e)(2)(B) of such Code (relating to tier 1 taxes) is amended—

(I) by striking "subclause (II)" in subclause (I) and inserting "subclauses (II) and (III)", and

(II) by adding at the end thereof the following new subclause:

"(III) HEALTH USA INSURANCE.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(c), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(c), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(3) or 1401(k)(3) (as the case may be) for such calendar year.".

(iii) Subsection (c) of section 6413 of such Code is (relating to special refunds) is amended by adding at the end thereof the following new paragraph:

"(4) SEPARATE APPLICATION FOR HEALTH USA INSURANCE TAXES.—in applying this subsection with respect to—

"(A) the tax imposed by section 3101(c) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(c),

the applicable contribution base determined under section 3121(x)(3) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears.".

(iv) Sections 1401(b), 1402(k)(2), 3101(b), 3111(b), 3121(x)(2), 3231(e)(2)(B)(i)(II), and 6413(c)(3) of such Code are each amended by striking "HOSPITAL" each place it appears in the headings thereof and inserting "HEALTH CARE".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment attributable to taxable years beginning after such date.

(b) TOP MARGINAL INDIVIDUAL INCOME TAX RATE INCREASED TO 33 PERCENT.—

(1) IN GENERAL.—The tables in subsections (a), (b), (c), (d), and (e) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) are each amended by striking "31%" and inserting "33%" each place it appears.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(c) INDIVIDUAL TAX ON UNEARNED INCOME AND EMPLOYERS' MAINTENANCE OF EFFORT FOR RETIREES.—

(1) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new part:

"PART VIII—HEALTH CARE TAXES

"Sec. 59B. Individual health care tax.

"Sec. 59C. Employers health care tax.

"SEC. 59B. INDIVIDUAL HEALTH CARE TAX.

"In the case of an individual, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 2 percent of the portion of the adjusted gross income for the taxable year which is not attributable to earned income (as defined in section 911(d)(2)).

"SEC. 59C. EMPLOYERS HEALTH CARE TAX.

"(a) IN GENERAL.—In the case of an employer, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to 50 percent of the actuarially equivalent aggregate amount which would have been paid or incurred by the employer (or predecessor employer) during the taxable year for individual or family coverage of retired employees with respect to whom such employer had a contractual obligation on December 31, 1992, under group health plans (as defined in section 5000(b)(1)) in existence on such date.

"(b) TERMINATION.—This section shall not apply in any taxable year beginning after December 31, 2012.".

(2) CONFORMING AMENDMENT.—The table of parts of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Health care taxes.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(d) OASDI TAXABLE WAGE BASE INCREASED.—Section 230(c) of the Social Security Act (42 U.S.C. 430(c)) is amended by striking "beginning)—" and all that follows through "that subsection" and inserting "beginning) in 1993 shall be $125,000. For purposes of determining under subsection (b) of this section the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning in 1994 and subsequent years, the dollar amount specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) of this section and to be the amount determined under that subsection.".

(e) INCREASE IN PERCENTAGE OF SOCIAL SECURITY BENEFITS SUBJECT TO TAX.—

(1) IN GENERAL.—Subsections (a) and (b) of section 86 of the Internal Revenue Code of 1986 (relating to social security and tier 1 railroad retirement benefits) are each amended by striking "one-half" each place it appears and inserting "85 percent".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(f) TAX ON CORPORATE INCOME.—

(1) IN GENERAL.—Subsection (b) of section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by striking "34 percent" each place it appears and inserting "44 percent".

(2) CONFORMING AMENDMENTS.—

(A) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "56 percent".

(B) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "44 percent".

(C) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "44 percent".

(D) 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 "44 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(g) INCREASE IN TAX ON CIGARETTES.—

(1) RATE OF TAX.—Subsection (b) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigarettes) is amended—

(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$30.50 per thousand"; and

(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$64.05 per thousand".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to articles removed after December 31, 1992.

(3) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1993, and held on such date for sale by any person, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $18.50 per thousand;

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $38.85 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1993, to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by subparagraph (A) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1993, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1993.

(C) CIGARETTE.—For purposes of this paragraph, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1986.

(D) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by subparagraph (A) shall not apply to cigarettes in retail stocks held on January 1, 1993, at the place where intended to be sold at retail.

(E) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(i) cigarettes—

(I) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1993, and

(II) which are entered into the customs territory of the United States on or after January 1, 1993, from a foreign trade zone, and

(i) cigarettes which—

(I) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1993, and

(II) are entered into the customs territory of the United States on or after January 1, 1993, from a foreign trade zone,

shall be subject to the tax imposed by subparagraph (A) and such cigarettes shall, for purposes of subparagraph (A), be treated as being held on January 1, 1993, for sale.

(h) INCREASE IN TAX ON DISTILLED SPIRITS.—

(1) IN GENERAL.—Section 5001(a) of the Internal Revenue Code of 1986 (relating to rate of tax on distilled spirits) is amended by striking "$13.50" each place it appears in paragraphs (1) and (3) and inserting "$50.00".

(2) TECHNICAL AMENDMENT.—Section 5010 of such Code (relating to credit for wine and flavors content) is amended by striking "$13.50" each place it appears in paragraphs (1)(A) and (2) and inserting "$50.00".

(3) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On any item subject to tax under section 5001 of the Internal Revenue Code of 1986 that is removed before January 1, 1993, and held after such date for sale by any person, there shall be imposed a tax equal to $36.50.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding an item to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed on any item by subparagraph (A) shall be treated as a tax imposed under section 5001 of the Internal Revenue Code of 1986 and shall be due and payable on February 13, 1993, in the same manner as the tax imposed under such section is payable with respect to such items removed on January 1, 1993.

(C) EXCEPTION FOR RETAILERS.—To the extent provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, the tax imposed by subparagraph (A) shall not apply to items in retail stocks held after December 31, 1992, on the premises of a retail establishment where

alcoholic beverages are sold for consumption on the premises only.

(D) TREATMENT OF ITEMS IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a), or any other provision of law, any item which is located in a foreign trade zone on January 1, 1993, shall be subject to the tax imposed by subparagraph (A) and shall be treated for purposes of this paragraph as held on such date for sale if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such item before such date pursuant to a request made under the first proviso of section 3(a) of such Act, or

(ii) such item is held on such date under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, provisions similar to sections 5062 and 5064 of such Code shall apply to any item with respect to which tax is imposed by subparagraph (A) by reason of this subparagraph.

(E) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the excise taxes imposed under section 5001 of the Internal Revenue Code of 1986 shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply in respect of the taxes imposed by subparagraph (A).

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items removed after December 31, 1992.

(i) INCREASE IN OTHER EXCISE TAXES.—The Commission shall recommend to the Congress not later than January 1, 1993, increases in other excise taxes under the Internal Revenue Code of 1986 resulting in additional annual revenues of $5,000,000,000.

SEC. 332. STATE SOURCES OF REVENUES.

(a) IN GENERAL.—Each State shall be responsible for establishing a financing program for the implementation of the State program in the State. Such financing program may include—

(1) funds used to finance the State share of medicaid under title XIX of the Social Security Act as in effect on the date described in section 502 of this Act,

(2) 75 percent of State and local funding for public hospitals and other indigent care programs, and

(3) State funding from general revenues, earmarked taxes, payroll taxes, sales taxes, and such other measures consistent with this Act as the State may provide.

(b) START-UP FUNDS.—In order to assist each State in the development and implementation of the State program, each State is entitled to receive from the Trust Fund an amount equal to—

(1) $10,000,000, plus

(2) $1 for each individual of the State population in excess of 7,000,000.

(c) ON-GOING ENTITLEMENT.—Each State with a State program approved by the Commission is entitled to funding from the Commission in the amounts provided under section 303.

SEC. 333. COST-SHARING.

(a) IN GENERAL.—Except as provided in this section, a State program may not permit approved plans to impose cost-sharing for services under this Act.

(b) COST-SHARING FOR HEALTH CARE SERVICES AND NONINSTITUTIONAL LONG-TERM CARE SERVICES.—

(1) IN GENERAL.—

(A) ANNUAL DEDUCTIBLE.—A State program shall require an annual deductible with respect to covered health care services and noninstitutional services described in section 202(c) (including noninstitutional respite care services) equal to—

(i) $100 for each individual, and

(ii) $300 for a family consisting of more than 2 individuals.

(B) COPAYMENTS FOR PHYSICIAN VISITS.—A State program shall require a copayment of $5 be charged for the first physician visit for an illness.

(C) GENERAL COPAYMENTS.—A State program shall require copayments with respect to expenses incurred in a calendar year for services described in this paragraph at a rate not to exceed 20 percent, or its equivalent (including any $5 charge described in subparagraph (B)).

(2) OVERALL LIMIT ON COST-SHARING.—Cost-sharing described in paragraph (1) with respect to expenses incurred in any calendar year for services described in such paragraph may not exceed—

(A) $1,000 for a family consisting of 1 individual,

(B) $1,500 for a family consisting of 2 individuals, or

(C) $2,000 for a family consisting of more than 2 individuals.

(3) SERVICES EXCLUDED FROM COST-SHARING.—No cost-sharing may be imposed with respect to—

(A) preventive services described in section 201(a)(5),

(B) inpatient care, and

(C) other services as specified by the Commission.

(4) ACCESS FOR LOW-INCOME INDIVIDUALS.—The Commission shall establish rules and procedures to ensure that services described in paragraph (1) are available and affordable to low-income individuals. To the extent possible, such rules and procedures shall not be based on means testing or stigmatizing indicators.

(c) LIMIT ON COST-SHARING FOR INSTITUTIONAL LONG-TERM CARE SERVICES.—

(1) IN GENERAL.—Except as provided in paragraph (2), cost-sharing with respect to expenses incurred in any month for institutional services described in section 202(b)(1) may not exceed an amount equal to 80 percent of the individual's benefits under title II of the Social Security Act for such month.

(2) THREE-MONTH EXCLUSION.—No individual shall be liable for payment of any amount for the first 3 months of such institutional services during any period of continuous institutional care exceeding 3 months.

(d) PAYMENT AMOUNT IS PAYMENT IN FULL.—No individual shall be liable for payment of any amount for covered health care services or covered long-term care services furnished under this Act except as permitted in this section.

SEC. 334. NATIONAL HEALTH CARE TRUST FUND.

(a) TRUST FUND ESTABLISHED.—

(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "National Health Care Trust Fund". The Trust Fund shall consist of such gifts and bequests as may be made and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this Act.

(2) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(A) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the taxes imposed under sections 59B, 59C, 1401(b), 1401(c), 3101(b), 3101(c), 3111(b), and 3111(c) of the Internal Revenue Code of 1986.

(B) ADDITIONAL REVENUES.—There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by subsections (a)(4), (b), (d), (e), (f), (g), (h), and (i) of section 331 of this Act.

(C) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by subparagraphs (A) and (B) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in such subparagraphs, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such subparagraphs.

(3) TRANSFER OF FUNDS.—All amounts, not otherwise obligated, that remain in the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund on the first day of the fiscal year described in section 501 shall be transferred to the Trust Fund.

(4) INCORPORATION OF TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 of the Social Security Act (42 U.S.C. 1395t), as in effect on the day before the date of the enactment of this Act, shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund, except that any reference to the Secretary of Health and Human Services or the Administrator of the Health Care Financing Administration shall be deemed a reference to the Commission.

(5) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (b), including amounts appropriated with respect to title XIX of the Social Security Act, section 1079 of title 10, United States Code (CHAMPUS), and chapter 89 of title 5, United States Code, as in effect on the day before the effective date of section 502 of this Act.

(b) EXPENDITURES.—

(1) TO STATES.—Payments in each calendar year to each State from the Trust Fund as determined under section 303 are hereby authorized and appropriated.

(2) ADMINISTRATIVE EXPENSES.—There are hereby authorized and appropriated such sums as are necessary for the administrative expenses of the Commission for each fiscal year, not to exceed 0.2 percent of the total payments made to the States for such fiscal year as determined under section 303.

(c) TRUST FUND OFF-BUDGET.—The receipts and disbursements of the Trust Fund and the taxes described in subsection (a)(2) shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

TITLE IV—ADMINISTRATION

SEC. 401. NATIONAL HEALTH CARE COMMISSION.

(a) IN GENERAL.—There is hereby established within the Department of Health and Human Services a National Health Care Commission.

(b) APPOINTMENT AND TERMS OF MEMBERS.—The Commission shall be composed of—

(1) 8 individuals approved by the President, with the advice and consent of the Senate, and

(2) the Surgeon General of the United States.

Such individuals shall serve for a term of 5 years, except that the terms of individuals initially appointed shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(c) VACANCIES.—

(1) IN GENERAL.—The President shall fill any vacancy in the membership of the Commission in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The President may reappoint an appointed member of the Commission for a second term in the same manner as the original appointment.

(d) PRESIDENT AND VICE PRESIDENT.—The Commission shall select a President and a Vice President from among the members of the Commission.

(e) COMPENSATION.—Members of the Commission, with the exception of the Surgeon General of the United States, shall be compensated at a level comparable to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

(f) STAFF.—The Commission shall employ such staff as the Commission may determine necessary.

(g) APPLICABILITY OF CIVIL SERVICE PROVISIONS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and be compensated without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual may receive pay less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule or more than the rate of basic pay payable for level IV of the Executive Schedule.

(h) DUTIES.—

(1) IN GENERAL.—The Commission is responsible for the overall administration of this Act, as well as the development of specific guidelines to permit States to carry out this Act.

(2) INNOVATION.—The Commission shall encourage the States to develop and experiment with innovative ways to improve the efficiency, effectiveness, and quality of State programs, including the development of models that promote the integration of covered health care services and covered long-term care services.

(3) MINIMUM STANDARDS.—

(A) IN GENERAL.—The Commission shall establish, evaluate, and update national minimum standards to assure the quality of services provided under this Act and to monitor efforts by State programs to assure the quality of such services.

(B) NATIONAL MINIMUM STANDARDS.—The national minimum standards under subparagraph (A) shall be established for institutional providers of services, physicians and other individual health care personnel, and organized delivery programs. Such standards shall include elements relating to—

(i) adequacy and quality of facilities,

(ii) training and competence of personnel,

(iii) comprehensiveness of service,

(iv) continuity of service,

(v) patient satisfaction (including waiting time and access to services), and

(vi) performance standards (including organization, facilities, and structure of services, and outcome in palliation, improvement of health, stabilization, cure, or rehabilitation).

(C) EXCHANGE OF INFORMATION.—The Commission shall provide for an exchange, at least annually, among State Commissions on Quality of information respecting quality assurance and cost containment.

(4) UNIFORM REPORTING.—The Commission shall establish uniform reporting requirements to ensure an adequate national data base regarding health personnel, services and finances of State programs, approved plans, and providers.

(5) TECHNOLOGY ASSESSMENT, EFFECTIVENESS RESEARCH, AND PRACTICE GUIDELINES.—The Commission shall, in close consultation with the Secretary of Health and Human Services, make recommendations (to be included in the report required by subsection (i)) related to—

(A) technological development and clinical treatment effectiveness;

(B) outcomes of drugs, devices, and clinical procedures;

(C) possible inclusion of new drugs and technological procedures as covered health care services and discontinuance of payment for inefficient procedures; and

(D) development and adoption of medical guidelines, including the improvement of outcomes in rural or other medically underserved areas.

(6) SERVICES TO MEDICALLY UNDERSERVED AREAS.—

(A) IN GENERAL.—In making programmatic recommendations (to be included in the report required by subsection (i)), the Commission shall consider national and regional needs for health professionals and health services, including special consideration of areas of medically underserved populations and the relative numbers of medical, nursing, and other specialists and health professionals providing services in such areas. Such recommendations should include economic, educational, or other incentives, such as bonuses, tax credits, scholarships, and loan repayment programs, to attract health personnel to such areas. The Commission will consider the role of and support of the programs of the Health Resources and Services Administration, including the National Health Service Corps program and other programs focusing on increasing the supply of health manpower, in its recommendations.

(B) REGIONAL AND STATE EFFORTS ENCOURAGED.—The Commission shall strongly encourage the further development of—

(i) college, university, or other State-based programs to train health professionals for work in rural or medically underserved areas of a State or region, such as the Rural Health Education Network (RHEN) program at the University of Nebraska's Medical Center and Nebraska State Offices of Rural Health, and

(ii) State and local grants and scholarships to encourage health care providers to work in medically underserved areas.

(C) ADDITIONAL APPROACHES.—The Commission shall also recommend methods to support research, demonstrations, and other innovative experiments with approaches to providing health services in medically underserved areas and improving the delivery and outcomes of care provided in rural or other medically underserved areas.

(7) ORGANIZED APPROACHES TO DELIVERY OF SERVICES.—The Commission shall sponsor efforts to encourage State programs to develop and expand organized approaches to the delivery of health care services, especially those that emphasize primary and preventive care and outreach to underserved groups. Such approaches may include fee-for-service health care plans, health maintenance organizations, local health departments, community health care centers, hospital-based and community-oriented team health care services, and neighborhood-hospital-home health care plans.

(8) MALPRACTICE AND LIABILITY REFORM.—The Commission shall recommend options (to be included in the report required by subsection (i)) for providing incentives or grants to States to establish alternative dispute resolution systems. Such recommendations may include no-fault, fault-based, or binding arbitration systems and may provide for funds for State-level demonstration programs for these types of systems. The Commission shall also make recommendations pertaining to various tort reforms including limitations on recovery of noneconomic damages, reducing awards by the amount of compensation from collateral sources, and limiting attorneys' contingency fees.

(i) REPORT.—

(1) INITIAL REPORT.—Not later than January 1, 1992, the Commission shall report to the Congress regarding the implementation of the program established under this Act, including any recommendations for further implementing legislation. Such recommendations shall include proposals for—

(A) the treatment or enrollment of veterans and families of veterans under the program,

(B) the coordination of the military medical system with the program,

(C) the transition from coverage by existing Federal health care programs for Federal employees and other specific segments of the population to coverage by the program established under this Act, and

(D) the use of existing Federal health care facilities.

(2) ANNUAL REPORTS.—Beginning January 1, 1993, the Commission shall annually report to Congress on the status of expenditures under this Act, long-range plans and goals for the organization and delivery of personal health services, progress in quality assurance, differences in the health status of the populations of the different States, necessary changes in the education of health personnel, and opportunities for improvements under this Act.

(j) NATIONAL ADVISORY BOARD.—

(1) APPOINTMENT.—The Commission shall provide for appointment of a National Advisory Board to advise the Commission on its activities.

(2) MEMBERSHIP.—Such Advisory Board shall consist of 15 members who are representatives of employers, unions, health care providers, health care insurers, consumer organizations, State programs, and public health professionals, as well as the general public. Such members shall serve for terms of 3 years, except that, in the initial appointment, 5 members shall be each appointed for terms of 1-year, 2-years, and 3-years.

(3) VACANCIES.—

(A) IN GENERAL.—The Commission shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(C) REAPPOINTMENT.—The Commission may reappoint an appointed member of the Board for a second term in the same manner as the original appointment.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall select a Chairperson and a Vice Chairperson from among the members of the Board.

(5) COMPENSATION.—All members of the Board and the committees established under paragraph (8) shall be reimbursed by the Commission for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Board.

(7) DUTIES.—Such Advisory Board shall sponsor site visits and studies that are concerned with issues of access to health care services, utilization of health care services, consumer participation and satisfaction in the provision of health care services, education of health personnel, medical practice, medical technology, quality of approved plans, and malpractice liability.

(8) COMMITTEES.—The Board shall create such committees (composed of Commission members and others as appointed by the Chairperson) as necessary to enable the Board to meet its responsibilities and functions, including the following standing committees:

(A) TECHNICAL COMMITTEE.—A technical committee to evaluate medical technologies, education of health personnel, and medical practice and make recommendations to the Board regarding technology, education, medical practice, and other related issues.

(B) QUALITY OF CARE PLAN COMMITTEE.—A quality of care plan committee to assess the performance and quality standards for care plans in the States and the enforcement of those standards.

(C) MALPRACTICE AND LIABILITY COMMITTEE.—A malpractice and liability committee to assess and make recommendations on issues relating to professional liability and the resolution of malpractice claims.

SEC. 402. STATE PROGRAMS.

(a) SUBMISSION OF PROGRAMS.—

(1) IN GENERAL.—Each State shall submit to the Commission the State program in the State.

(2) REGIONAL PROGRAMS.—Any State may join with neighboring States to submit to the Commission a regional program in lieu of a State program.

(b) REVIEW AND APPROVAL OF PROGRAMS.—The Commission shall review programs submitted under subsection (a) and determine whether such programs meet the requirements for approval. The Commission shall not approve such a program unless it finds that the program provides, consistent with the provisions of this Act, for—

(1) adequate financing of covered health care services and covered long-term care services under the program through a Care Fund, including the annual submission of the State program budget to the Commission,

(2) freedom of choice of eligible individuals in the selection among approved plans,

(3) a system by which the State program shall provide all eligible individuals with standardized information about all approved plans in their areas to facilitate the enrollment process;

(4) effective cost containment measures and payment methodologies consistent with title III,

(5) a process for retroactively adjusting hospital payments to more closely reflect costs of operation during a calendar year,

(6) adequate administration, including the designation of a single State agency responsible for administration of the program and the establishment of a public advisory board (with board representation of interested parties),

(7) a system of uniform reporting requirements by approved plans;

(8) responsive quality assurance mechanisms (including the establishment of a State Commission on Quality),

(9) organization of a State procedure to determine capital needs and recommend allocation of capital to localities and institutions,

(10) an organized grievance procedure available to consumers through which complaints about the organization and administration of approved plans and services covered by the State program may be filed, heard, and resolved,

(11) a process for developing the State's annual health budget, cost containment measures, payment practices, quality assurance mechanisms, grievance procedures, and other relevant aspects of the State program, which process shall include regular and adequate opportunities in diverse geographical settings for the citizens of the State (or region) to have their opinions solicited and heard by the Commission, and

(12) the development of models that promote the integration of covered health care services and covered long-term care services.

Programs under paragraph (9) shall provide for appropriate plans to refinance institutional debt.

(c) OPERATIONAL STATUS.—A State program in a State shall not be considered operational unless it is approved under subsection (b).

(d) FAILURE OF APPROVAL.—

(1) IN GENERAL.—If the Commission finds that a State program submitted under subsection (a) does not meet the requirements for approval under subsection (b) or that a State program, previously approved, no longer meets such requirements, the Commission shall provide notice to the State of such failure and that unless corrective action is taken within a period of 90 days the sanctions described in paragraph (2) may be applied, effective 90 days after the end of such 90-day period.

(2) SANCTIONS.—The sanctions described in this paragraph are—

(A) censure,

(B) reductions in the amounts otherwise payable by the Federal Government under this Act to the State, but in no event shall such amount be reduced by more than 10 percent, and

(C) placing the State program in receivership under the jurisdiction of the Commission.

For purposes of subparagraph (B), no reduction shall result in the contraction of primary or essential care services.

SEC. 403. STATE COMMISSIONS ON QUALITY.

(a) IN GENERAL.—Each State program shall provide for an appointment of a State Commission on Quality to implement national minimum standards in each State. Members of such a Commission shall be appointed to serve for fixed (and staggered) terms and in a manner as to provide for representation of the viewpoints of relevant health professions, health institutions and programs, and the general public (including representation of various population groups in the public).

(b) MODIFICATION OF STANDARDS.—Each State Commission on Quality may, with the consent of the Commission, provide for the application of modified national minimum standards due to special conditions or opportunities in the State.

SEC. 404. RESOURCE ENHANCEMENT FUND.

(a) ESTABLISHMENT.—There is hereby established a Resource Enhancement Fund, to be administered by the Commission.

(b) PURPOSE.—The Fund shall be used by the Commission to augment the capability of any medically under-developed area to provide services under this Act, such as through the development of health clinics, and to strengthen such area's abilities to provide local services.

(c) FUNDING.—There are authorized to be appropriated for the Fund for fiscal year 1994, $1,000,000,000, and, for each fiscal year thereafter, amounts not exceeding 1 percent of the total payments made to the States under this Act in that fiscal year.

(d) GRANTS.—The Commission shall provide, upon application, for making amounts available in the Fund to States and localities.

TITLE V—EFFECTIVE DATE; REPEALS; TRANSITION; RELATION TO ERISA

SEC. 501. EFFECTIVE DATE.

The program established under this Act shall first apply to health care services and long-term care services furnished during the third fiscal year beginning after the date of the enactment of this Act.

SEC. 502. REPEALS.

(a) IN GENERAL.—Titles XVIII and XIX of the Social Security Act and chapter 89 of title 5, United States Code, are repealed.

(b) REPEAL OF CHAMPUS PROVISIONS.—

(1) AMENDMENTS TO CHAPTER 55 OF TITLE 10.—Sections 1079 through 1083, 1086, and 1097 through 1100 of title 10, United States Code, are repealed.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended by striking out the items relating to the sections referred to in paragraph (1).

(3) CONFORMING AMENDMENTS.—Chapter 55 of title 10, United States Code, is amended as follows:

(A) DEFINITION.—Section 1072 is amended by striking out paragraph (4).

(B) REIMBURSEMENT OF THE DEPARTMENT OF VETERANS AFFAIRS.—Section 1104(b) is amended—

(i) in the subsection heading, by striking out **"from CHAMPUS funds"**; and

(ii) by striking out "from funds" and all that follows and inserting in lieu thereof "for medical care provided by the Department of Veterans Affairs pursuant to such agreement.".

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall take effect on the first day of the fiscal year described in section 501.

SEC. 503. TRANSITION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of 3 fiscal years beginning after the date of the enactment of this Act such sums as may be necessary to provide for financial assistance to States in the planning and development of State programs.

(b) REGULATIONS.—The Commission shall issue such regulations as are necessary to provide for a transition to the national health care program established under this Act from the programs repealed under section 502.

SEC. 504. RELATION TO ERISA.

The provisions of the Employee Retirement Income Security Act are superseded to the extent inconsistent with the requirements of this Act.

HEALTH USA ACT OF 1991—BILL SUMMARY

This bill calls for the creation of a universal, tax-funded national health system, administered by the states, to finance comprehensive health and long-term care services for all Americans.

TITLE I—UNIVERSAL ELIGIBILITY AND ENROLLMENT

All U.S. citizens are eligible for coverage under this Act in the state in which they maintain a primary residence.

Eligible persons will enroll in either a state-operated fee-for-service health plan or any of a number of private health plans operating in their area.[1] Private insurers and others, who meet the specified eligibility criteria for operating a plan, may participate in the program. Participating private plans may operate as fee-for-service, health maintenance organizations, preferred provider organizations or other types of systems. The state-operated fee-for-service health plan may be operated either by the state health program or contracted out by the state program to a private insurer or other entity.

States will specify an easily understood and available enrollment process for persons in their state. There will be at least one open enrollment period per year. States will also establish processes for disenrollment. If a person fails to enroll in any plan and is in need of medical care services, those services will be covered by the state-operated plan.

TITLE II—BENEFITS AND PROVIDERS

Benefits

All private and public health plans will provide coverage for medically effective and appropriate preventive, primary and specialty care services including diagnostic, treatment and rehabilitative services.

Covered health services include:

Inpatient and outpatient hospital care, including emergency services;

Physician services and services of other health professionals as authorized under state law;

Laboratory and diagnostic tests;

Preventive care services;

Prescription drugs;

Mental health and substance abuse services (limited to 45 inpatient days and 25 outpatient visits;

Nursing home (for persons with three ADLs[2]); and

Home health services, including respite care services (for persons with three or more ADLs).

Preventive care services include services such as basic immunizations, pre- and postnatal care services, well-baby and child care, periodic screening, Pap smears, colorectal examinations, health promotion and education and other preventive services as found effective in preventing or minimizing the effect of illness, disease or medical condition and adopted by the program. States may add other benefits but without Federal financial assistance.

Plans cannot limit the amount, duration or scope of covered health services. The Commission[3] or state programs, however, may limit services if such limits are in agreement with prevailing medical practice guidelines or necessary to allocate expenditures in such a way as to improve the health of the state's population.

Emergency hospital or physician services may be provided in another state or country while an individual is temporarily visiting that state or country. Services can also be provided in a neighboring state if the provider in that state is closer than a provider in the individual's state of residence. These services will be reimbursed at rates established by the other state or country. Experimental treatments, as reviewed and approved by the National Advisory Board and approved by a state program, will be covered by the state-operated health plan.

No private insurance may be sold for benefits that duplicate covered health services. Private health plans may, however, sell or provide without charge additional benefits beyond those included by the program. Federal financing will not be available for additional benefits offered by plans.

Covered long-term care benefits include both institutional and noninstitutional services, including respite care, for persons with three or more activities of daily living (ADLs). Care managers will assess individuals and develop a plan of care in consultation with the individual, family members or other informal caregivers. Certificate of need programs will be retained or established in all states to limit the growth in the supply of nursing home beds.

Health Plans

State programs would establish criteria for participation by private health plans. Plans must, at minimum, provide: services at least equal to those specified by the National Commission for the payment specified by the state program; services of an acceptable quality; enrollment and disenrollment of individuals; anti-discrimination assurances; establishment of budgets and for payment for services; payment for services provided outside the state; economic operation and administration of the plan; required information and data; responsive grievance procedures; and other requirements that the Commission may specify. Plans may not exclude anyone for any pre-existing health conditions.

Each state will establish and operate or contract for at least one plan meeting the above requirements and approved by the state health program. The state-operated plan will control health care costs through the negotiation of fee schedules; negotiation of expenditure targets or caps; and the direction of certain services to certain types of providers. Negotiations will occur between the state program and the appropriate representatives of health care providers. If these cost containment measures are not successful, the state-operated plan may employ cost-sharing for services or controls on utilization ordered by providers.

State programs may apply to the Commission for a waiver to contract with a private plan to operate the state-run health plan. If a state elects to contract out this function, the contracting plan must provide payment for those persons enrolled in the plan and state residents not enrolled in another plan and provide payment for experimental treatments. This plan must also demonstrate that it is as administratively efficient as a state-operated plan and provide access to quality health services at least equal to a state-operated plan.

If a private plan no longer meets the requirements of an approved plan, the state program may withdraw approval of the plan and provide a process by which enrollees in that plan may enroll in another plan.

TITLE III—FINANCING

Budget Process

National Program Budget

The Commission will recommend an annual fiscal year budget to the Congress. In developing this recommendation, the Commission will compute a national average per capita cost for the covered benefits to the eligible population. The cost would be adjusted to reflect differences in health and long-term care service utilization for each of a number of risk groups (i.e., age, sex, etc.). This adjusted amount would be paid to states based on the number of state residents in each risk group with additional adjustments made to reflect non-labor and labor costs in the state; special social, economic, geographic or other conditions that affect the cost of providing health services in the state; distribution of the state's population (i.e., the number of residents living in rural or medically underserved areas); and the per capita state income and poverty level. This cost would be adjusted annually to reflect changes in the state's population, covered benefits, medical technology, accepted medical practice, and other factors affecting the costs of medical services. The Commission will also recommend to the Congress the appropriate federal contribution to the states.

State Program Budgets

Each state will establish an annual fiscal year budget. This budget will include expenditures to be made by the state for covered health and long-term care services and revenues required to meet those expenditures. A Fund established at the state level will receive the federal portion of the state's expenditures and make payments to approved health plans.

Several special accounts will be established in each state with the amount deposited in the account determined by the state program. These accounts include:

Prevention account

For community-based disease prevention, health promotion, farm health and safety and other programs including those targeting populations with special health care needs.

Capital account

For capital-related expenditures, including general and specialty services and technologies, based on population, geographic dispersion, other factors affecting health service utilization in local areas. This capital account will be separate from funds for patient care services. Restrictions will be placed on the supply of nursing home beds.

Medical education

For costs associated with research and teaching activities in patient care settings. Funds will be designated to teaching hospitals and other facilities for costs associated with teaching and research. States are encouraged to use such funds to help meet national, regional, state and local health care needs, particularly training of health professionals.

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[1] "State program" refers to the state health care financing program operating under federal guidelines and with federal financial support. "Health plan" refers to any health plan that meets speified criteria for operation that operates in a state, or region of states, to provide the federally-required benefits in exchange for a prescribed capitation payment paid by the state program.

[2] ADL—"activities of daily living."

[3] A National Health Commission will be created within the US Department of Health and Human Services to administer the federal portion of the program.

Payments to Approved Plans, Providers

Payments to Approved Plans

The state program will pay a capitation payment to each private health plan operating in a state. This payment will be made monthly and must be accepted as payment in full, except for limited copayments, for covered services.

States will provide for payment to approved plans for persons enrolled in that plan on a monthly basis. Retroactive adjustments in such payments may be made to take into account any differences between the actual number of persons enrolled and the payment level. Payments to the state-operated plan will include an amount for all state residents who have not enrolled in another plan.

Payments to Noninstitutional Providers Under Approved Plans

State programs will establish fee schedules, based on a national relative value scale similar to that being implemented under the Medicare program. The state program and practitioner associations will negotiate the fee schedule as well as expenditure target levels for physician services. State programs will provide physicians with practice profiles and a comparison profile for the average of physicians in his or her target grouping. The negotiating body will also receive profiles. Other payment mechanisms may be employed (e.g., capitation, salary, hourly payments, etc.) as long as the amount of these payments does not exceed the amount that would be paid under the above methodology. Practitioner payments made under alternative methods will be exempt from fee schedules and expenditure targets. All payments to providers must be accepted as payment in full.

The state program will require that approved plans that pay for services on a fee-for-service basis provide for the direct payment to nurse practitioners, nurse midwives, physicians' assistants and other health professionals authorized to provide health services under State law while not under the direct supervision of a physician.

Payments to Institutional Providers

Payments for institutional services, including hospitals and nursing care facilities, will be made directly to each institution by the state program. Payments will be based on an annual prospective budget negotiated with each institution and consistent with the state health care budget. Approved plans will be charged the costs for institutional care provided to plan enrollees. States interested in developing alternative payment mechanisms may receive a waiver from the Commission if they demonstrate that the payment methodology will not result in expenditures exceeding those provided under the state program budget.

Payments to Care Managers

State programs will pay long-term care managers directly based on payment schedules negotiated between the state program and care management agencies. Payment to care managers will be accepted as payment in full.

Federal Sources of Revenues

Existing Sources of Health Care Funding

All current sources of funding for health care services will be applied to the program. These include the federal share of the Medicaid program, general revenues share of Medicare, Medicare HI payroll tax and funding for the CHAMPUS and civil service workers program.

New Sources of Health Care Funding

The following new sources of funding for health care will be applied: establish a new payroll tax of 5.0 percent of all payroll of which 4 percent is paid by employers and 1 percent is paid by employees; create a top marginal rate of 33 percent; make 85 percent of social security benefits taxable; place a two percent tax on non-wage income in Adjusted Gross Income (AGI); expand the OASDI tax base to $125,000 for workers only; increase the corporate income tax by ten percentage points; implement excise taxes on cigarettes, distilled spirits and others as recommended by the National Commission; require corporations with current health benefit commitments to retirees to pay an annual amount equal to 50 percent of these benefits for the next 20 years.

State Sources of Revenues

Existing Sources of Health Care Funding

States' funding for the program will include the current state share of Medicaid and maintenance of effort for state and local indigent care programs (75 percent of current funding).

New Sources of Health Care Funding

States will be responsible for establishing a financing program for the state program. Additional state funds may include state revenues, earmarked taxes, payroll or sales taxes—as determined by the state.

Cost-Sharing

Individuals' cost-sharing will include 20 percent coinsurance (or its equivalent) for covered services, including a $5 copayment for the first physician visit for an illness. A $100 deductible is also required. Limits on out-of-pocket cost-sharing are $1,000 for an individual; $1,500 for a family of two; or $2,000 for a family of three or more. Cost-sharing will not be required for preventive and hospital services. Low-income individuals will be protected from financial barriers. No cost-sharing is required for the first three months of nursing home care. After the initial 3 months, cost-sharing for nursing home services is 80 percent of Social Security benefits.

Trust Fund

A "National Health Care Trust Fund" is created within the U.S. Department of the Treasury. The program will be fully funded. Funds in this trust fund will be exempt from any general budget limitation imposed by statute on expenditures and net lending of the U.S. Government.

TITLE IV—ADMINISTRATION

National Health Care Commission

The Commission will be located within the Department of Health and Human Services (DHHS). It will consist of eight commissioners approved by the President with the advice and consent of the Senate. The Surgeon General of the U.S. Public Health Service will be included as a voting member of the Commission. Terms will be for five years and established in such a way as to stagger the terms. Individuals may be appointed for shorter terms. The Commission will select a chair and vice-chair from among their members.

The Commission will:

Develop specific guidelines to enable the states to carry out their programs;

Encourage states to develop and experiment with innovative methods of improving the quality, efficiency and effectiveness of state programs;

Establish, evaluate and update national minimum standards to assure the quality of services provided including adequacy and quality of facilites, training of personnel, etc.;

Establish uniform reporting requirements to ensure an adequate national data base on health personnel, services and finances of state programs, plans and providers;

Assess medical technology and develop practice guidelines for clinical effectiveness;

Consider and make recommendations regarding national and regional needs for health professionals and services with special consideration of rural and other medically underserved areas and populations. This consideration will include the number and specialties of health professionals in such areas and recommendations of economic, educational or other incentives and programs, such as the National Health Service Corps, that may be applied to attract health professionals to these areas;

Encourage the further development of university- or state-based programs to train health professionals for work in underserved areas; and

Recommend methods to support research, demonstrations and innovative approaches to providing health services in underserved areas and improving the delivery and outcomes of care provided in underserved areas.

The Commission will also assist state efforts to develop and expand organized approaches to the delivery of health services, especially those that emphasize primary or preventive care and outreach to underserved groups.

The Commission will also recommend options for providing incentives or grants to states to establish alternative dispute resolution systems for medical malpractice claims. Some recommendations may include fault-based or binding arbitration systems and may provide funds for state-level demonstration programs for these or other types of systems. The Commission will also make recommendations pertaining to various tort reforms including limitations on recovery of noneconomic damages, reducing awards by the amount of compensation from collateral sources and limiting attorney's contingency fees.

The Commission will also submit a report to Congress on the implementation of the program including transition to the program. Once the program is operational, the Commission will report annually to Congress on the goals and objectives of the program.

National Advisory Board

A National Advisory Board will be created to advise the Commission on activities relating to the program. This Board will consist of 15 members who represent consumers, employers, unions, health care providers, health care insurers, state government officials, public health professionals and others. Members will serve three year staggered terms.

The Board will create committees to study, hold public hearings and meetings and make recommendations to the Commission on issues such as the following:

Evaluation of medical technologies, education of medical personnel and medical practice; quality of care standards for health plans; and malpractice.

State Programs

States may join with neighboring states to act as a region in the administration of state programs.

States will submit an overview of their State program to the Commission. All state programs must meet basic requirements outlined by the Commission. These include the following:

Adequate financing of covered health and long-term care services;

Freedom of choice among approved plans for eligible state residents;

Effective cost containment features consistent with Title III of this act;

Adequate administration of the program including the establishment of a state public advisory board;

Responsive quality control mechanisms;

Procedure to determine capital needs and make recommendations for capital expenditures;

Organized grievance procedure available to consumers; and

Models to promote the integration of health and long-term care services.

If a state program does not meet the requirements for operation of a program, sanctions may be applied including censure and placing the state program in receivership under the jurisdiction of the Commission.

State Commissions on Quality

Each state program will provide for the appointment of a state Commission on Quality. This Commission will implement national minimum standards for quality. The Commission will be appointed to represent the viewpoints of relevant health professionals, health institutions and programs and the public.

Resource Development Fund

This fund will be developed by the National Commission to augment the capability of any medically underdeveloped or underserved area to provide health services under this program. This may include financial assistance for clinics or providers to practice in these areas. States may apply for funds from this Fund to address problems of underserved areas in their state.

TITLE V—EFFECTIVE DATE, REPEALS, TRANSITION, RELATION TO ERISA

Effective Date

The program will become effective during the third fiscal year beginning after the enactment of this Act.

Repeals

On the first effective date of this Act, Titles 18 and 19 of the Social Security Act (Medicare and Medicaid, respectively) will be repealed.

Transition

For each of the three fiscal years beginning after the date of the enactment of this Act such funds as necessary to help states plan and develop their state programs will be provided. The Commission will issue regulations as necessary for the development of the program.

Relation to ERISA

The provisions of the Employee Retirement Income Security Act (ERISA) that are inconsistent with this Act are superceded.

TESTIMONY BEFORE COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, JUNE 18, 1991

(By Katherine Swartz, Ph.D., Senior Research Associate, the Urban Institute)

Thank you for inviting me to comment on why I believe that expanding health insurance coverage in this country via employer "play or pay" rules is a bad idea. I have six major reasons for opposing the extension of health insurance via our current dependency on employer groups. In the interest of time this morning, I will discuss just the first three of these reasons and submit discussion of the other three reasons in my full written testimony.[1]

Over the past ten years, competition in the insurance industry has fragmented the insurance market. Workers in younger, healthier groups have significantly lower premiums than workers in older and/or less healthy groups. Small groups are particularly vulnerable to experience rating because the group is actually treated as a bunching of individual policies; one person with large medical expenses can cause the group premium to increase by large amounts in the following year. Small groups have been largely ineffective in joining together to obtain greater bargaining power with insurance companies. Thus, people who work for smaller firms, or firms with an older or less healthy work force, face much higher premiums than their counterparts in larger firms or in firms with younger or healthy workers. This fracturing of the insurance market does not spread the risk of large medical expenditures. Rather, the insurance companies are collecting enough in premiums to pay the predictable costs of each group plus retain a profit. While this is surely good business for insurance companies, we must recognize that the current reliance on employer-groups for health insurance encourages insurance companies to divide us all into predictable groups. Communal spreading of risk—the function of insurance.

While economists (such as myself) generally prefer systems that have incentives to encourage behavior in a person's own best interests, I think the current stress on competition within the insurance industry has altered our sense of what is a person's own best interest. The competition encourages a very myopic, present-time oriented definition of self-interest. We need to remember that if we are lucky, all of us will grow older and face increasing medical problems as we age, and if we are unlucky, we will die at a younger age of some no doubt expensive disease such as cancer. Viewed in this light, an individual has life-cycle interests—not just a focus on the current year. If we pay less in health insurance premiums when we are young, the piper will surely call the tune of higher premiums when we are older. Moreover, most of us have relatives, particularly older relatives, and neighbors of varying ages. A person's own interests are therefore surely intertwined with the medical costs faced by such relatives and neighbors. We need to remind ourselves that our own individual interests include the needs of others and the changing needs of ourselves over lifetimes. Risk sharing that encompasses a larger share of our society than just our workplace provides for these wider self-interests.

The second problem I see with relying on employer-groups as the primary vehicle for expanding health insurance is that it does not provide portability of health insurance from one job to another. As people age, they are increasingly likely to have medical conditions are well as preferences for continuing a relationship with a physician who has dealt with their medical history. Within the past two years, as the aggregate costs of AIDS and chronic diseases have risen, insurance companies have been able to get firms to agree that the policies will not cover preexisting medical conditions for new members of the employer-group. For people with cancer, diabetes, high blood pressure, and an increasing number of other chronic diseases and conditions, such policies make it virtually impossible to change jobs. These policies also cause thousands of families to live with the fear of losing their current jobs and access to health insurance. This is especially true in the current recessionary environment. If people feel locked into their current jobs, particularly as they age and their human capital reaches a peak, our economy suffers from lower productivity. When there is lower productivity in the country, we all suffer from having a smaller national pie to divide not only among ourselves but with future generations as well.

A third reason why requiring employers to provide health insurance is a bad idea is that it will impose an open-ended cost on employers. None of the taxes imposed on an employer's payroll (for example, FICA or unemployment insurance) by either the federal or state governments are open-ended. Contributions to pension funds are similarly confined to either a defined contribution or a known percentage of payroll. In the case of health insurance, however, mandates to employers would leave them exposed to increases in health care costs in general, and their own employees' expenditures for health care in particular—neither of which an employer can control. The fracturing of the insurance market that I discussed earlier will lead to otherwise identical employers in the same industry having different health insurance costs if one employer has one or two employees with high medical bills one year. Currently, health insurance benefits are the most expensive of the nonwage benefits paid to workers. In this situation, employers would be acting quite rationally if they opted to pay the tax penalty rather than providing health insurance in a pay or play situation. The tax penalty is at least defined. The outcome of the pay or play regulations might be that more workers would be without health insurance from their employers.

A fourth problem with relying on employer-provided health insurance is that it may cause enormous problems within families if every worker has to have health insurance coverage from his or her own employer. Insurance companies have their own procedures for how a person seeks reimbursement, along with different requirements for copayments and deductibles, and rules as to what types of benefits are covered. The paperwork burden for families dealing with more than one insurance plan could be awesome. Because the government is often sensitive to the paperwork burden it imposes on businesses, it is surprising that scant attention has been paid to the potential burden the pay or play plans could impose on families in America.

The potential burdens on families could be further exacerbated by rules assigning children to different employed parents' insurance plans. Some states already have procedures for assigning children born on even dates to one parent's policy and children born on odd dates to the other parent's policy in the case of dual coverage of the children. If the two parents' insurance policies covered different benefits or if the two policies involved different sets of physicians—which could happen if each parent belonged to a different HMO—then the possibility for efficient practice of family medicine is greatly diminished.

A fifth problem with requiring employers to provide health insurance to their employees is that many employers of the less skilled and younger workers are likely to argue that providing health insurance is in lieu of wage increases. Because workers with

[1] Opinions expressed are those of Dr. Swartz and should not be construed as representing opinions or policy of The Urban Institute or sponsors of The Urban Institute.

more education are already more likely to have health insurance than workers with less education, requiring firms to provide health insurance is likely to hurt the younger and less skilled workers than their older and more educated counterparts. In particular, it will cause real wages to decline further for workers who do not have health insurance now. The gap between high school graduates' wages and college graduates' wages will widen still further.

In addition, some workers who currently do not have health insurance will lose their jobs. How many people will lose employment is not clear. The effect of adding health insurance to the employment compensation package for people at or near the minimum wage is analagous to increasing the minimum wage. But adding health insurance on top of the April 1990 and April 1991 increases in the minimum wage raises the total "wage" increase beyond previous relative increases in the minimum wage. Because it is not clear how elastic the demand for labor is, we cannot forecast how many people will lose their jobs as a result of requiring employers to provide health insurance.

The sixth and last concern I have with building an expansion of health insurance coverage on the base of employer-groups revolves around implementation problems. Determining what types of employers and employees will be exempt from such plans is likely to be a free-for-all for lobbyists. If insurance companies are already raising the minimum size of a group below which they require medical underwriting, what is special about a firm with fewer than six employees? Enforcement of play or pay rules may also be quite difficult. Firms and employees in some industries already acquiesce to being paid in cash and off payroll books, thereby avoiding other taxes. We can only imagine how employer mandates to provide health insurance might exacerbate this situation.

I think it was Edmund Burke who said, "God is in the details," a phrase which public policy analysts have converted to. "The good is in the particulars." I firmly believe that we should be designing a health care system that has both universal coverage and a structure to contain costs. To do one without the other is clearly not realistic. We will not be able to constrain cost increases without a single-payer type of system that covers all Americans regardless of where and whether they work. Towards that end, we should be focusing our creative energies towards tackling the particulars—the nitty-gritty detail issues that transcend alternative methods of financing such a system—namely, budgeting that provides room for local control, reimbursement methods and streamlined claims mechanisms that do not encourage gaming of the system, and a definition of what constitutes adequate medical care for given medical conditions. The system's viability in the future will depend on providing for further tinkering and changing of the system as America's health care needs change. Thank you.

HEALTH USA ACT OF 1991—OVERVIEW OF COST CONTAINMENT PROVISIONS

The United States is spending a growing amount of its gross national product (GNP) on health care. Despite the imposition of cost containment measures throughout the 1980's, national health care spending has continued to increase faster than the GNP. In 1989, the United States spent $604 billion, or 11.6 percent of the GNP, on health care. Preliminary figures indicate that spending reached 12.2 percent of the GNP in 1990. The Congressional Budget Office (CBO) reports that health spending accounted for 14 percent of the federal budget in 1989 and predicts it will account for 19.5 percent of the budget by 1996. The Health Care Financing Administration (HCFA) estimates that health care spending will reach 15 percent of the GNP by the year 2000. National expenditures on health care cannot continue to steadily rise faster than inflation and the rate of national economic growth without endangering the nation's domestic standard of living and international competitiveness.

Health USA will control health care costs through a system of national and state-level budgeting and financial incentives on health care providers, plans and patients. The following outlines the major cost containment features of Health USA:

SINGLE PAYER SYSTEM

Health USA controls health care spending by establishing a system of budgets and financial incentives to efficiently provide quality health services. Health USA is a budgeted program, rather than an open-ended spending commitment.

Federal and State Levels: A "single payer" system is established at both the federal and state levels.[1] At the federal level, all health care funds, including current health care spending, flow through a dedicated health care trust fund. Funds are then distributed to states according to a formula. The formula is based on the average per capita cost of providing health services to the state's resident population taking into account age, sex, geographic distribution of the state's population, and other factors that affect patterns of health service utilization and cost of providing care. The amount received by the state is then placed into a state health care trust fund from which all health and long-term care services are paid in that state. Each state's health program pays participating health plans a risk-adjusted amount for individuals enrolled in their plan, negotiates fee schedules and expenditure targets for physician services, and negotiates budgets for hospitals.

Health Plans: Private and public health plans operating in states are responsible for providing all covered health services as specified by the National Commission. Each plan will be paid a ("capitation") payment for each person who enrolls in their plan. The plan must provide all covered health services required by each enrollee for the sum of the capitation payments and any allowed copayments. Plans may not charge additional premiums or other charges for these services.

As noted above, the capitation payment will be risk-adjusted to ensure that plans are reimbursed for the average costs of caring for their particular mix of enrollees. Provider reimbursement systems (described below) would provide plans with an effective method to operate within this system. These systems would also make health plans' costs relatively predictable. Fee-for-service health plans that find they cannot contain spending under this system, may use additional cost containment measures such as managed care or utilization review.

[1] Under a "single payer" system, a single entity (in Health USA, the federal government) is the sole source of payment to state health programs. All federal funds are channeled through this entity.

NEGOTIATED FEE SCHEDULES AND OPERATING BUDGETS

Physicians: Physician spending is controlled through state all payer systems.[2] Under this system, the state program would negotiate physician fee schedules and expenditure target levels. Fee-for-service physicians will be paid fees for each service, based on a resource based relative value scale similar to the new Medicare physician payment system. The state program will negotiate with the appropriate association(s) of physicians in the state an overall expenditure limit for physicians' services in that state and a "conversion factor" which will determine the actual dollars paid for each service in the fee schedule. If physicians' services in the year exceed the negotiated expenditure target, then the next year's rate increase (i.e., in the "conversion factor") would be lowered by that amount. Similar expenditure subtargets will be negotiated with groupings of physicians in subareas within the state. Differences not resolved in the negotiation process could be referred to a pre-established mediation or arbitration process within the state.

To assist physicians in staying within the negotiated expenditure targets, the state program may provide individual physicians with profiles of their own practice patterns. Additionally, those provider associations responsible for negotiating expenditure targets at each level may be sent profiles of physicians within their target area.

Hospitals—Patient Care: Hospital spending will be controlled by negotiating annual operating budgets with the state program along with structuring into the system financial incentives for cost control that would affect all hospitals and health plans. Health plans will be charged for the use of hospital services given by their enrollees; this will help control the demand for hospital services by giving health plans an incentive to work with physicians to reduce unnecessary hospitalizations by providing care in the most appropriate setting possible and seeking out less costly, more efficient hospitals that provide equivalent services.

CAPITAL BUDGETS

Hospitals—Capital: Capital spending will be separate from patient care spending for hospitals. Each state program will set aside a portion of its total revenues (level determined by the state) in a separate Capital Account. A process will be established and used in designated local areas according to a formula based on local population and the geographic dispersion of the population, population mix and risk factors of the population, capital needs of the area and other factors determined by the state program. Capital obligations in effect at the start of the program may be determined by the state program. Certificate of need programs will be retained or established in all states to limits the growth of nursing home beds. Removing payments for capital from capitation payments and patient-care reimbursements will permit greatly increased cost control and more effective allocation of resources to meet health care needs. Separating capital from operating revenues also is important to control the growth of the base on which some of the most expensive health care costs are generated.

COST-SHARING

Patients: Individuals will share in holding down health care spending. Cost-sharing will

[2] Under an all-payer system for physicians, physicians are paid by different payers but at the same negotiated rate.

include 20 percent coinsurance (or its equivalent) for covered services, including a $5 copayment for the first physician visit for an illness. A $100 deductible is also required. Cost-sharing limits of $1000 for an individual; $1500 for a family of two; and $2000 for a family of three or more will be applied. Cost-sharing will not be required for preventive and hospital services. Low-income individuals will be protected from financial barriers. No cost-sharing is required for the first three months of nursing home care. After the initial 3 months, cost-sharing for nursing home services is 80% of Social Security benefits.

EFFECTIVENESS RESEARCH AND PRACTICE GUIDELINES

Health USA will sponsor the further development of medical effectiveness research and the development of practice guidelines and treatment protocols. Medical effectiveness research will be used to further our understanding of what medical procedures and practices work, their costs and their appropriateness for different types of patients. Practice guidelines will be further developed to help translate knowledge about effective care into clinical practice. Development of these guidelines will be used to provide recommendations for physicians about the appropriate and effective use of medical services. Guidelines will be evaluated and revised as appropriate.

ADMINISTRATION

Health USA will reduce the administrative complexity and administrative costs of financing health care by reducing hospital and doctor billing costs, the costs of provider reimbursement by health plan and the state program, and by reducing the amount of resources that health plans spend on "underwriting" and marketing. The global budgeting and uniform payment system for hospitals will greatly reduce hospital billing costs. Hospitals will electronically bill the state program for each admission or inpatient day. Hospitals will no longer expend resources on collections or cost-shifting to multiple payers. The uniform billing and payment system for physician services will reduce both physician and health plan administrative costs. Administrative requirements on providers are required to be reduced to levels comparable to private insurers under the current system. This involves administrative reporting requirements to the federal government as opposed to requirements for claims.

The risk-adjusted payment for each person who enrolls in a plan and the requirement that plans take all persons who wish to enroll in their plan and other rules will both enable plans to operate under this system and reduce the resources that health plans now spend on evaluating individuals' risk. Plan marketing to the public also will be reduced because the State program will disseminate uniform comparative information about plans to potential enrollees, and because enrollment will be a simplified process.

MEDICAL MALPRACTICE

Health care costs associated with medical malpractice and the practice of unnecessary "defensive" medicine will also be reduced under Health USA. The National Commission will be directed to recommend options for providing incentives or grants to states to establish alternative dispute resolution systems. These systems may include fault-based or binding arbitration systems and may provide for funds for state-level demonstration programs for these types of systems. The Commission may also make recommendations regarding tort reforms, including limits on recovery of noneconomic damages, reducing awards by the amount of compensation from collateral sources, and limits on attorneys' contingency fees. The Commission may also recommend steps to reduce the incidence of malpractice, including the establishment of practice guidelines (see above), risk management programs for providers and insurers, and other steps to strengthen state medical licensing boards and disciplinary procedures.

Mr. EXON. Mr. President, I salute the talented leadership that my colleague from Nebraska, Senator BOB KERREY, has given to the whole pressing matter of health care delivery and its costs in the presentation that he has just made.

Senator KERREY had worked very long, very hard, very diligently holding hearings all across the State of Nebraska to get the input and advice from all affected parties, both providers and those who would receive benefits from a total revamp of the health care delivery system and how to best pay for such costs, which are tremendous.

I do not know, and I suspect that Senator KERREY does not know, whether or not the measure that he introduced today will ever become law. I suggest, though, that in 4, 5, or 6 years, or possibly sooner, Mr. President, the very thoughtful, the very bold, if you will, concept, ideas, and financing mechanism embodied in the Kerrey proposal will be looked back on as the incubator, if you will, of a very complete overhaul of the health care delivery system.

Senator KERREY, I emphasize once again, has not gone into this matter without a great deal of thought and consideration. He has developed a plan that this Senator does not agree with in every one of its details. In fact, I have some serious reservation about some of the concepts of the Kerrey plan. Nevertheless, I suggest that the suggestions being made today in the form of a specific bill by my colleague from Nebraska is going to go a long way in drawing, not only the attention of the Senate, but the attention of the House of Representatives, the attention of the Nation, if you will, and enhance the prospects of an early coming to terms with this matter that we all know has been swept under the rug for far too long.

Senator KERREY did not ask me nor did ask anyone else, to my knowledge, to be a cosponsor of his legislation. He presented this after a lot of hard work and a lot of thought to the concept. I notice in the newspapers that some Members in the other body have basically said that Senator KERREY'S bill is dead on arrival because of its costs. Well, Mr. President, that might well be the case, but the facts of the matter are the fainthearted are the ones who have never moved the United States of America forward in any concept. The dedicated leadership and thoughtfulness of my colleague from Nebraska and the boldness with which he has stepped out should be saluted by all of us. How many of us in this body, Mr. President, would dare come on the floor of the U.S. Senate and suggest such a departure from the health care delivery system that for all intents and purposes is on the verge of breaking down completely? How many of us would dare come on the floor of the U.S. Senate and as much as suggest an increase in taxes somewhere along the line to begin to remedy the health care system of the United States of America? I hope in the future that I can be working with my colleague, and I know that I will, and I hope that others will make some refinements, significant refinements, or otherwise, to his measure, which I salute him for introducing today.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BRYAN, Mr. BOND, and Mr. SHELBY):

S. 1447. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 1448. A bill to establish an Assistant Secretary for Administration of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BRYAN, Mr. BOND, and Mr. SHELBY):

S. 1449. A bill to develop Federal Government performance standards and goals plans, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 1450. A bill to establish the Office of Management and the Office of the Budget; to the Committeee on Governmental Affairs.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM LEGISLATION

Mr. GRAHAM. Mr. President, as we are well aware, the story of the Department of Housing and Urban Development during much of the 1980's was a tale of failed public policy.

Reports by the Department's inspector general, other audits, and investigations by several committees of Congress show that a program designed to provide funding for low-income housing became substantially abused by the politically well connected. Prominent people received substantial amounts of money as consultants not because of their housing expertise, but because they could influence HUD funding decisions.

HUD mismanaged programs either because it opposed the programs themselves, such as section 8 Moderate Rehabilitation, or because it lacked the capacity or leadership to operate them free from abuse. Unfortunately, the various parties responsible for oversight of the situation were all negligent, including HUD itself, the Office of Management and Budget, and Congress.

At a time when the Nation's problems with the homeless was growing, the agency interested with public policy was incompetent, corrupt, and disinterested.

We have paid a price—both in the misuse of public moneys and in lost public confidence in Government—for these failures.

From failure, however, can come learning.

It is my privilege today to share what has been learned by the HUD/Mod Rehab Investigation Subcommittee from 10 hearings and additional studies in 1990.

It was the goal of the subcommittee to uncover the lessons of this unfortunant period and to suggest remedies that will produce better results in the future.

We have distinguished our investigations from others on this subject by focusing less on the personalities involved and more on the institutions and processes of Government that broke down.

While others have concentrated on the "rats" who abused the program, we have looked at the "cheese" that made these programs susceptible to abuse in the first place.

The efforts of the subcommittee were not partisan. The problems at HUD have existed for a long time, and Congress must share part of the responsibility for not having uncovered them sooner.

Moreover, our committee benefited from the cooperation of all its members, including my fellow Floridian and ranking Republican CONNIE MACK. Senators SHELBY, BRYAN, and BOND also made valuable contributions to the work of the subcommittee.

Our subcommittee has developed constructive proposals in three areas:

First, streamlining low-income housing programs at HUD,

Second, tightening management practices at HUD and throughout government, and

Third, implementing performance standards and goals for Federal programs.

Few of our proposals are glamorous or even particularly newsworthy. But all of them are intended to ensure that we get full value for each taxpayer's dollar and to restore public confidence in Government institutions.

This group of 4 bills contains 13 legislative proposals from the 60 recommendations in our report on how HUD, OMB, and Congress can do our jobs better. The bills are being introduced separately to allow each of the subcommittee members to cosponsor as many of the bills as possible and to allow for efficient and timely committee action.

The recommendations address the issue of how our Government runs and the kinds of breakdowns that occur when an agency like HUD is not properly managed.

Government is like an automobile. No matter how well a car is built, it requires careful design and periodic inspection, maintenance, and fine tuning. If any of these ingredients are missing, its operation gradually deteriorates.

If nothing is done about the deterioration, the car eventually breaks down.

The sad truth is that HUD, and possibly the HUD's of the future, have frequently not had safety of operations designed into their programs. Furthermore, these programs have not been getting their regular inspections, maintenance, and fine tuning. Hence, we have seen the deterioration of many Government agencies and in the case of HUD a virtual breakdown.

The important jobs of congressional oversight and executive management have often been postponed with few immediately visible adverse effects. But such neglect ignores the old warning: "Pay me now or pay me later."

We can't go back and correct yesterday's problems at HUD, but we can most certainly take steps to avoid repeating these same problems tomorrow.

It's time to invest in the maintenance of HUD and other Federal agencies. It's time to enhance congressional oversight and executive management, so we don't have to go through another series of investigations about what went wrong.

HISTORY OF THE COMMITTEE

While the Senate was considering the HUD Reform Act, the Senate Banking Committee continued its investigation into problems and abuses at HUD. To do so, the Senate adopted a resolution creating the HUD/Mod Rehab Investigation Subcommittee to focus on topics that had either been inadequately addressed or needed to be further investigated to take into account events occurring subsequent to the Banking Committee's hearings.

During 1990, the subcommittee hired a staff headed by the President-Elect of the American Bar Association, Talbot D'Alemberte, and conducted 10 hearings. We heard from Secretary of Housing Kemp and numerous other current and past officials of HUD. Also appearing as witnesses were officials from OMB, the Justice Department, and the General Accounting Office; experts from universities and think tanks; and people from the private sector knowledgeable in the operations of HUD and the administration of housing programs.

The published Final Report and Recommendations of the subcommittee is in the possession of the Senate, and I will touch today on the highlights of our findings and proposals.

STREAMLINING LOW INCOME HOUSING PROGRAMS

Incentives to developers to provide low income housing come in many forms: Section 8 Moderate Rehabilitation funding, low income tax credits, Federal insurance programs, and allowance for fair market rents.

As these incentives became layered for individual projects, there was little supervision or coordination of them by the Government. As a result, there was only limited evaluation of the overall net effects.

In some instances, the combination of incentives provided for oversubsidization of housing. Out of these large profits came the money to pay political consultants for clout at HUD. In other words, the layering produced the cheese that attracted the rats.

On its own, the low income tax credit has provided an inadequate and unpredictable incentive. The tax credit available under section 42 of the Internal Revenue Code has become the principal Federal subsidy supporting the production of low income housing. Because credits have been extended year by year, long-term investments could not count on them beyond the next extension. This has made low income housing financing difficult and has caused problems in the administration of the tax credit.

The serious problems at HUD demonstrated the need for streamlining the incentives for low income housing. The goal should be to provide incentives that are "enough" but not "too much."

In 1989, Congress took an important step toward streamlining by requiring HUD and State housing finance agencies, respectively, to consider other financing for a project when awarding subsidies or low income housing tax credits.

In 1990, Congress extended the credit's authority until December 31, 1991, and further amended the program by modifying provisions. The two areas of modification, which partially address problems identified during the subcommittee's investigation, are in the area of compliance and in the layering of subsidies.

The 1990 Reconciliation Act requires the qualified allocation plans submitted by the State credit agencies to include a procedure for monitoring and reporting noncompliance to the Internal Revenue Service.

The Reconciliation Act also calls for a study by the Secretary of the Treasury and the inspector general of HUD on the combined use of the low income housing credit and section 8 Moderate Rehabilitation funds and the effectiveness of this combination in meeting the objectives of the tax credit.

The 1989 and 1990 legislation does not, however, resolve all the issues

unturned during the investigation. The issues that require resolution and which are addressed in our proposed legislation include:

The need for a longer term extension of the authority for the low income housing tax credit to encourage greater investor interest and to provide predictability needed by the housing credit agencies to develop and maintain in-house capacity to perform the new duties assigned to them in 1989 and 1990;

The need for the housing credit agencies to make every effort to control the costs of expanded monitoring programs; and

The need to establish a uniform method of determining fees that are paid to project developer from project funds.

To address these remaining problems, our proposed legislation extends the tax credit authority through 1997. The bill also:

Authorizes the collection of a compliance monitoring fee; and

Includes in the process whereby the housing credit agency determines the amount of credit to be allocated to ensure project feasibility the developer fee and any direct or indirect benefits to the developer.

Although well intentioned as a tool to increase the pool of low income housing, the tax credit has been abused. Congress did not make clear when it originally enacted the tax credit which governmental entity was responsible for overseeing the implementation of the program and for minimizing the sometime over indulgent layering of housing subsidies.

Changes enacted in 1989 and 1990 show Congress' awareness that the State housing credit agencies would have to fill the oversight void. The provisions in this bill should add to the fine tuning required in 1989 and 1990.

Moreover, these provisions should help ensure that the low income housing tax credit achieves the policy objectives for which it was originally intended.

TIGHTENING MANAGEMENT PRACTICES

Increasing fraud or waste in any Government agency is usually a sign of poor management controls. So it was no surprise that the Committee's look into management efforts at HUD revealed serious internal control problems that had been lingering at the agency for years.

The committee also found that these problems persisted in part because top officials of the previous administration failed to identify and address these problems, even when such problems were brought to their attention.

Perhaps the most troubling example occurred in 1987, when HUD reported to the President and to Congress that the agency's financial controls were adequate. At the same time, HUD management knew that serious problems existed with HUD's accounting system, such as the fact that the accounting of the FHA fund did not comply with generally accepted accounting standards and the fund had been for the past 15 years deemed unauditable by the General Accounting Office.

Throughout the period between 1983 and 1988, the inspector general monitored HUD management efforts to identify and correct internal control problems. In addition to revealing that HUD management were conducting inadequate control reviews, the IG uncovered management problems that HUD Assistant Secretaries refused to identify. These problems included, among other things, serious control deficiencies with the HUD Coinsurance and section 8 Moderate Rehabilitation Programs.

Only through much heated debate did the inspector general persuade HUD management to identify most of these problems in an annual report to Congress and the President regarding the state of HUD internal management controls.

Today, the new HUD management has taken its job seriously, but longstanding internal control problems still plague HUD programs. Most prominent is the poor shape of HUD's financial systems, which cause management decisions to be made on the basis of outdated or incorrect financial information. In fact, GAO has revealed that inadequate financial controls are not unique to HUD. Shockingly, that agency cannot point to any Federal agency that can be considered a model of good management controls.

HUD's problems can also be traced to a deteriorating staffing situation during the 1980's.

The Department's staffing levels were reduced by 30 percent in the 5 years from 1981 to 1986. Numerous inspector general reports, a management study of HUD by the GAO, and an internal study done by the department itself highlighted the adverse consequences to HUD programs because of the inability to handle the cuts in staff.

These adverse effects included enormous backlogs and delays in HUD's review of loans and appraisals, superficial and deficient monitoring in many HUD programs, and little or no training of new, inexperienced staff. All studies discussed the severe consequences of financial risk to the agency as a result of losing an adequate number of staff to perform critical in-house functions and losing staff with important housing expertise.

Effects on HUD staff and program delivery were further exacerbated by the extensive and growing number of political appointees at HUD and their lack of housing experience. Over a third of HUD's Senior Executive Service are noncareer appointees.

As noted by the Volcker Commission, having a large number of political appointees at top levels in an agency can cause low morale and exodus by career staff, because their career advancement is cut short and their expertise is not used in critical policymaking positions. Political appointees can also be disruptive to day-to-day program delivery because of the short time in which they stay in their positions—a little over 2 years or less, in HUD's case.

While HUD managers are responsible for guiding the day-to-day operations of the agency, the Office of Management and Budget is responsible for overseeing and coordinating management efforts of HUD and all other Federal agencies. During the administration of Secretary Pierce, OMB oversight of HUD was, in the words of the current deputy director, essentially "moribund." OMB examiners were blind to the scandals of HUD during that time.

In short, OMB is a highly political agency which has been unable in its history to implement sustained management strategies free from political and budget-driven biases.

Gaps in congressional oversight are also an issue. Many believe that Congress failed to notice warning signals of serious problems at HUD in time to correct them before they resulted in what may become billions of dollars of loss. Noteworthy of these warnings were those reported by the inspector general in a number of semiannual reports and other audits of HUD programs, as well as many audits by the General Accounting Office which told of significant deficiencies at HUD that put millions of dollars at risk.

Meanwhile, HUD was being less than honest in fully admitting its weaknesses in its annual reports pursuant to the Federal Managers' Financial Integrity Act and less than cooperative with Congress.

During most of the 1980's, Congress conducted little oversight of HUD and toward the end of the 1980's, began to focus its attention not on oversight but on new housing legislation. Review of HUD reports must be made a more integral part of the oversight responsibility of our authorizing committees.

The management problems at HUD and other agencies can often seem intractable, but we believe that solutions are available. We believe the answer lies in strengthening and clarifying the role of the "watchdogs" in Federal agencies, reducing somewhat the number of political appointees in political positions, requiring stronger attention to management issues in the Federal executive, and providing for more regular oversight of agencies by congressional committees.

Our proposed legislation strengthens Federal "watchdogs" by requiring that all inspector general and GAO audits of Federal agencies state in the summary whether problems discussed by the audit are considered, in the opinion of

the auditor, "material weaknesses" pursuant to the Federal Managers Financial Integrity Act.

In addition, all inspectors general would be required to investigate any meaningful allegations that agency managers have lied or made misrepresentations in the Integrity Act evaluations or in the subsequent final report and to report on their findings within 60 days after a formal allegation is made to them in writing.

Our legislation amends the Inspector General Act to clarify congressional intent regarding the use of the 7-day letter. This is a device created by Congress to ensure that inspectors general would quickly bring to the attention of agency management and Congress any flagrant abuse.

Unfortunately, we found that it has rarely been used at any agency and was never used by the HUD inspectors general, despite the existence of flagrant problems.

The overuse of political appointees needs to be addressed in at least two places. We recommend converting the position of assistant secretary for administration at HUD to a career, senior executive position. Second, we propose converting the Program Associate Director positions on the Office of Management and Budget to career positions.

Dwight Ink, president of the Institute of Public Administration, expressed his concern to the subcommittee about creeping patronage into civil service ranks. As Ink noted, the assistant secretary of administration at HUD provides a "focal point for departmentwide management leadership on behalf of the Secretary." Since becoming a political appointment, the position has lost its continuity and effectiveness.

It does not seem unreasonable to insist that the assistant secretary for administration, the only assistant secretary responsible exclusively for day-to-day administration at HUD, be an official who has experience within the department and who is not subject to the political turnstile. Eight other HUD assistant secretaries who oversee specific programs as well as many other positions would continue to be political appointees.

Our most far reaching and most debated recommendation is the creation of a separate Office of Management in the executive branch.

Former Bureau of Budget and OMB officials argued for separating out the management function. OMB and, indeed, the ranking Republican of the subcommittee oppose the split.

The majority concluded, however, that there were no indications that management would become a strong focus at OMB, that a separate agency would achieve this objective, and that we had not heard any alternative proposals that would correct the current neglect. For these reasons, our proposed legislation establishes a separate Office of Management.

As recommended by expert witnesses Harold Seidman and Alan Dean, the Office of Management would be staffed by persons expert in the organization and administration of Government agencies, would be given the resources to be effective, and would develop procedures for tracking agency management and identifying at an early stage breakdowns of the kind which have occurred at HUD.

Seidman and Dean stated:

> We also believe that the primary purpose of OMB oversight should be the prevention of inept or irresponsible administration through the systematic advancement of good management practices, not the belated locking of barn doors after grave shortcomings have come to public attention.

A new Office of Management can help structure new Federal agencies like the Resolution Trust Corporation and renovate those already in existence.

If we are going to strengthen management practices at HUD and other Federal agencies, we must also take steps to enhance oversight by Congress. Measures favored by the subcommittee include requiring congressional committees to hold hearings each year on the Financial Integrity Act report corresponding to each agency under its jurisdiction and designation by the Committee on Banking, Housing, and Urban Affairs of a staff person responsible for developing an oversight plan for the committee, collecting and analyzing GAO, IG, and agency reports, and conducting follow up on those reports.

I am optimistic that with these recommendations and others contained in the full report, we will be able to tighten management practices and thereby reduce the chances that the HUD scandals will be repeated there or elsewhere.

SETTING PERFORMANCE STANDARDS AND GOALS

The need for clarity regarding responsibility for oversight and intended objectives and standards kept sounding through the investigation by the subcommittee. Consequently, we wanted to determine some methods by which Congress and the executive branch could improve the implementation of programs.

In deciding the most effective ways for Congress to fulfill its oversight responsibilities, the subcommittee asked witnesses their views on the use of output or effectiveness indicators as means by which agencies and Congress could gauge the manner in which agencies carry out congressional intent. It became evident that there was a strong need for the clear articulation of congressional goals upon which program effectiveness can be measured.

The subcommittee also studied legislation introduced by Senator WILLIAM ROTH, the ranking minority member of the Senate Committee on Governmental affairs, which requires each agency to establish performance standards and goals for each expenditure in legislation which authorized or appropriated funds.

The bill I am introducing today, follows the initiatives proposed by Senator ROTH.

This bill requires each agency to establish a performance standards and goals plan. Not only will each department and agency be required to submit objective and quantifiable standards and goals, but they will have to evaluate their own performance and include estimates of the resources needed to carry out these responsibilities.

Congress will also be required, except in the case of a procedural waiver, to establish performance standards and goals. Authorizing and appropriating legislation will not be in order in the House of Representatives or the Senate unless the legislation specifies performance standards and goals.

This new requirement will better equip Congress and the administration to gauge how well programs are being implemented.

We have learned from the problems at HUD that when monetary and human resources are cut, the programs become vulnerable to corruption and greed. We must learn that for many programs there is a threshold of fund necessary to make the program worth its existence.

CONCLUSION

The problems at HUD resulted from weaknesses throughout the governmental system. Deficiencies were found in the guidance given by Congress, poor staffing and lack of coordination in the executive branch, managers who didn't manage, unchecked greed and corruption, plus poor oversight by Congress and the White House.

Consequently, it is not surprising that no single proposal will guarantee that we won't experience similar problems in the future. Repeated action on many fronts will be needed to ensure that program goals are being met and taxpayer dollars are being spent carefully.

Even if we pass every piece of legislation proposed by the subcommittee, the administration must take responsibility for providing sustained focus on management issues, and Congress must devote more attention to intelligent program design and to oversight.

If we take this comprehensive approach, we will not only streamline the low income housing program. We will also begin the process of improving the performance and earning increased credibility for all Federal programs.

By Mr. BIDEN (for himself and Mr. ROTH):

S. 1451. A bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire

service bill of rights; to the Committee on Commerce, Science, and Transportation.

BENJAMIN FRANKLIN MEMORIAL FIRE SERVICE BILL OF RIGHTS ACT

• Mr. BIDEN. Mr. President, I am pleased to be joined by my colleague from Delaware, Senator ROTH, in introducing the Benjamin Franklin Memorial Fire Service Bill of Rights. This bill is similar to legislation approved by the Senate last year. It is my hope that the Senate will again act quickly on this important legislation.

More than 1 million men and women are part of the fire service community in our Nation. Over 80 percent of these firefighters risk life and limb for no pay as volunteers. And yet for years, career and voluntary fire companies across the Nation have had little to no support from the Federal level. In fact, until recently the attitude of some Federal agencies with responsibilities toward the fire service community was closer to hostility than support.

During the past few years, I have witnessed two developments in the fire service community. I remember 5 years ago when something called the Burton Report was floating around the executive branch. The report called for changes in the structure and operation of the National Fire Academy in Emmitsburg, MD. Many believed those changes would have gutted the fire training programs that are so important to the 32,000 fire companies in the United States. The fire service community was irate.

They fought the recommendations of the report. The report was never adopted. I was pleased to join firefighters in working to block adoption of the report's recommendations. I am not sure if the short battle over the Burton Report was the spark that led to a more active fire service community, but it was certainly an indication of things to come.

Now the Congressional Fire Services Caucus is the largest in Congress. The fire Academy has benefited from legislative changes that protect the academy's integrity and effectiveness, not threaten it. Last year's farm bill established a program to help rural fire companies obtain needed equipment. The changes are underway.

This bill is identical to H.R. 2448, introduced in the House by the originator of this proposal, Congressman CURT WELDON. In fact, I am introducing the Senate counterpart at the request of Congressman WELDON, who is a congressional leader on fire service issues and creator of the Congressional Fire Caucus.

The basic outline of the bill is quite simple. The bill authorizes the minting of commemorative coins, the proceeds from which will be distributed to support several fire education, training and scholarship programs and for the Benjamin Franklin National Memorial, honoring the founder of our Nation's first volunteer fire company.

No cost to the taxpaper is involved with this bill. All the funds for the fire programs will come from surcharges on the sale of the commemorative coins. The programs will provide a much-needed increase in resources to our Nation's fire services. I do not believe it is anything near the support they deserve, but the bill is a tremendous boost to the hundreds of thousands of volunteer and career fire companies in each of the states.

The Benjamin Franklin Memorial Fire Service Bill of Rights is another indication of the growing recognition that career and volunteer fire companies are receiving, recognition that I believe is long overdue.

Fire claims more than 6,000 victims and causes over $10 billion in property damage each year. Over 100 of the victims of fire were the men and women who were at the site to try to put out the fire. It is a hazardous business to be involved with. That is why the training is important and why I have supported efforts to improve the equipment rural and urban companies have to put out the flames.

Delaware has over 4,000 firefighters. Of the State's 60 fire companies, 58 are volunteer. But while so many of Delaware's firefighters contribute their time, other costs are incurred and are growing.

Each call response costs a fire company $1,500, with or without a fire. that means the thousands of fire companies across the nation each have to raise hundreds of thousands of dollars. Protective gear worn by firefighters can cost in excess of $2,000 per person. Replacing trucks and other heavy equipment easily clears $60,000 per vehicle.

And on top of rising expenses, firefighters have to deal with rising demands for their services. In Delaware in 1980, 15,000 emergency calls were made. By last year, that figure had almost tripled to 40,000. But the State's population has grown only 13 percent during that period.

In sum, we are seeing the ingredients for a looming disaster from coast to coast. Equipment, training, and other costs are rising, emergency calls are more frequent, and yet the fire service community is facing more and more difficulty raising the funds to maintain the level of service the public expects.

That is why the bill we are introducing today is so important. It certainly does not clear the many hurdles that lie ahead for thousands of fire companies, but it does increase efforts to address fire problems from a number of angles.

How does this bill help reduce fire's tragic annual legacy? The bill provides financial resources for six important programs related to firefighter health and safety, burn research, firefighter education and training, scholarships for fire science, engineering and related fields, scholarships for survivors of fallen firefighters and education programs for low-income areas that are especially hard hit by fires.

Each of these programs will be run by foundations established by fire service groups. All of the funds must go to the purposes of the foundations, not for overhead or administration. There are many worthy fire programs that, if we had unlimited resources, would be funded. Our goal should be to expand this effort as much as possible, not restrict it. As this bill moves through the legislative process, I will be open to suggestions on how we can support programs in addition to the six listed.

While Senator ROTH and I are pleased to introduce this bill, it is also with a note of sadness that we do so. In the last Congress, it was our late colleague, John Heinz, who introduced the firefighter bill of rights in the Senate, and who guided it through the legislative process on this side of Congress. The ultimate success of the bill I am introducing in the 102d Congress will be built largely on the fine work of Senator Heinz in the 101st.

I know from personal experience how important fire companies are to individuals and communities facing emergencies. And it must be recognized that tremendous gains have been made in saving lives from fire since the landmark report 18 years ago entitled "America Burning." But there is much more to be done. The firefighter bill of rights is an important step toward regaining the initiative on reducing deaths, injuries, and damage from fire. This legislation has the strong support of the fire service community, and I hope will have equally strong support among my colleagues.

I ask unanimous consent that the text of our bill be printed in the RECORD.

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

S. 1451

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 "Benjamin Franklin Memorial Fire Service Bill of Rights Act".

TITLE I—MINTING OF BENJAMIN FRANKLIN NATIONAL MEMORIAL COMMEMORATIVE COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Benjamin Franklin National Memorial Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") shall issue not more than 250,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of Benjamin Franklin's contributions to the advancement of science. On each five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1993" and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall be emblematic of Benjamin Franklin's contributions to the American Fire Service. On each one dollar coin there shall be a designation of the value of the coin, an inscription of the year "1993" and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stocks of silver held by the Secretary or from any other federally owned stocks of silver.

SEC. 104. DESIGN OF THE COINS.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Chairman of the Benjamin Franklin National Memorial at the Franklin Institute, the Chairman of the Congressional Fire Services Institute, and the Chairman of the Commission of Fine Arts.

SEC. 105. SALE OF THE COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

SEC. 106. ISSUANCE OF THE COINS.

(a) FIVE DOLLAR COINS.—The gold coins authorized by this title shall be issued in uncirculated and proof quality and shall be struck at no more than one facility of the United States Mint.

(b) ONE DOLLAR COINS.—The one dollar coins authorized under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular quality.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this title beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—No coins shall be minted under this title after December 31, 1993.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges described in section 105(d) which are received by the Secretary shall be promptly paid by the Secretary as follows:

(1) AMOUNTS PAID FOR THE BENJAMIN FRANKLIN NATIONAL MEMORIAL.—Subject to section 109, the Secretary shall pay to the Franklin Institute (custodian of the Benjamin Franklin National Memorial) 22 percent of the amount of such surcharges so received. Such amounts shall be used—

(A) to restore and renovate the Benjamin Franklin National Memorial (hereafter in this section referred to as the "Memorial");

(B) to construct or renovate areas adjacent to the Memorial relating to the various interests of Benjamin Franklin, such as science, education, and Government;

(C) for exhibits in the Memorial or in the adjoining areas of the Franklin Institute relating to the Memorial, Benjamin Franklin, or to science and education;

(D) for capital funds for construction of access, parking, and facilities related to the Memorial;

(E) for funds for the acquisition and preservation of artifacts relating to Benjamin Franklin; and

(F) to establish an endowment in an amount determined sufficient for the Memorial, in consultation with the Secretary of the Interior, to ensure the continued upkeep and maintenance of the Memorial.

(2) AMOUNTS PAID FOR OTHER PURPOSES.—The Secretary shall pay, of the amount of the surcharges so received—

(A) 13 percent to the Institute of Life Safety Technology and Emergency Management Education to provide grants to colleges and universities for fire training courses at no cost to participants (such Institute shall not require the use of specific course materials as a condition for the receipt of such grant by a college or university);

(B) 13 percent to the International Association of Fire Chiefs Foundation to award scholarships for college level courses in fire science, engineering, and related fields;

(C) 13 percent to the International Association of Fire Fighters Burn Foundation for burn injury research at hospital burn centers and other qualified medical research organizations;

(D) 13 percent to the National Fire Protection Associations' Learn Not To Burn Foundation to deliver public education programs and resources to low income residents in rural and urban communities which have high fire injury and death rates;

(E) 13 percent to the National Volunteer Fire Council Foundation to establish and maintain programs to promote the health and safety of all firefighters; and

(F) 13 percent to the National Association of State Fire Marshals to establish and maintain the "John Heinz Memorial Scholarship Fund" to provide educational scholarships to the children and surviving spouses of fallen firefighters and emergency medical personnel as qualified under the Public Safety Officers Benefit Program.

(b) NATIONAL ASSOCIATION OF STATE FIRE MARSHALS.—For purposes of the educational scholarships described in subsection (a)(2)(F), the Attorney General shall make a list of such children and surviving spouses available to the National Association of State Fire Marshals on a timely basis.

SEC. 109. AUDITS.

(a) FRANKLIN INSTITUTE.—As a condition for receiving the proceeds of the surcharges pursuant to section 108(a)(1), the Franklin Institute (custodian of the Benjamin Franklin National Memorial) shall allow the Comptroller General to examine such books, records, documents, and other data of the Memorial as may be related to the expenditure of amounts paid, and the management and expenditures of the endowment established, under paragraph (1)(F) of such section.

(b) INSTITUTE OF LIFE SAFETY TECHNOLOGY AND EMERGENCY MANAGEMENT EDUCATION, NATIONAL ASSOCIATION OF STATE FIRE MARSHALS, AND THE FOUR FIRE SERVICE FOUNDATIONS.—As a condition for receiving the proceeds of the surcharges pursuant to section 108(a)(2), the Institute of Life Safety Technology and Emergency Management Education, the National Association of State Fire Marshals, and the four fire service foundations described in subparagraphs (B), (C), (D), and (E) of section 108(a)(2) shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of amounts paid.

(c) ADMINISTRATIVE, OVERHEAD, OR OTHER EXPENSES PROHIBITED.—No funds received under section 108, and no interest accruing on any such funds, may be used for administrative purposes, overhead expenses, or for any other purpose not described in such section.

SEC. 110. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this title shall result in no net cost to the United States Government.

(b) PAYMENT FOR COINS.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE II—FIRE SERVICE BILL OF RIGHTS

SEC. 201. SHORT TITLE.

This title may be referred to as the "Fire Service Bill of Rights Act".

SEC. 202. FIRE SERVICE BILL OF RIGHTS.

Section 2 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Congress"; and

(2) by adding at the end the following:

"(b) FIRE SERVICE BILL OF RIGHTS.—

"(1) America's fire services should be acknowledged as our first responder to domestic emergencies.

"(2) Members of America's fire services deserve every protection from the dangers associated with emergency response.

"(3) Family members of those in the fire services should be provided for in the event of the service-connected loss or disability of any member of a fire service.

"(4) Members of fire services should be educated in the latest fire and life safety sciences, and should have access to ongoing training programs to be able to take full advantage of the latest information.

"(5) Fire services should be provided with state-of-the-art equipment and apparatus to handle all emergency situations.

"(6) America's fire services deserve to have access to up-to-date fire and life safety programs to enable them to protect the public with minimal risk to the safety of their members.

"(7) Responding fire services have a right to know the kind of danger presented by hazardous materials they face in all emergency responses.

"(8) Fire services should be fully informed of the threat of infectious diseases their members face during the course of life safety activities.

"(9) America's fire services have the right to expect that the American people will be full partners in the struggle to preserve life and property from the ravages of fire and other disasters.

"(10) The history of American fire services and the sacrifices their members have made to protect lives and property in communities across the Nation deserve to be commemorated and honored.

"(c) NO PRIVATE RIGHT OF ACTION.—Nothing in subsection (b) shall create any private right of action in any person under this or any other Act.".●

● Mr. ROTH. Mr. President, with the recent release of the Hollywood thriller, "Backdraft," the Nation's eye has come to focus on the members of our Nation's fire service, who daily put their lives in jeopardy for all of us. The attention is well deserved, but unfortunately, Mr. President, the worthy gaze a film may cast upon a certain profession is often times fleeting and short-lived. Public interest in the fire service may wane as the spotlight moves on to another fashionable topic. Meanwhile, the real firefighters the film so colorfully depicts will continue to respond at all hours, day and night, to the call of help so frequently put to them.

Consequently, today I am pleased to join Senator BIDEN in introducing the Benjamin Franklin Memorial Fire Service Bill of Rights Act, to help provide a small measure of lasting support and appreciation for members of America's fire service. This important legislation establishes a fire service bill of rights and programs designed to work in carrying out these rights so justly deserved by the Nation's dedicated firefighters and their families.

The bill authorizes the minting of two special coins in honor of Benjamin Franklin, the Nation's first fire chief. Proceeds from the sale of the coins will be used to fund new programs in recognition and support of the courageous members of America's fire service. A $5 gold coin and a $1 silver coin will be issued by the Secretary of the Treasury and sold with $35 and $7 surcharges applied to each, respectively.

The profit received from the sale of these coins will be distributed to benefit fire service related activities as follows: 22 percent to the Benjamin Franklin National Memorial, for general upkeep, restoration, and exhibits at the Franklin Institute in Philadelphia; 13 percent to the Institute of Life Safety Technology and Emergency Management Education to provide grants to colleges for fire training courses; 52 percent to be divided equally among four foundations established to increase and promote national fire safety awareness, and expand research for treatment in fields such as burn injuries; and 13 percent to the National Association of State Fire Marshals to establish the "John Heinz Memorial Scholarship Fund."

Mr. President, by calling for the minting of these coins and channeling the funds to programs that will work to execute the bill of rights created by this legislation, we honor a great American patriot, entrepreneur, author and a firefighter himself, Benjamin Franklin. But perhaps more importantly, we make possible a series of effective educational and research opportunities to further secure the safety of both the courageous firefighters and the public they serve. Minting a coin at no cost but great benefit to the American taxpayer is, I believe, very much in the spirit of the thrifty Mr. Franklin and an initiative he would surely applaud. Certainly another Pennsylvanian patriot, our late colleague, Senator John Heinz, felt as much when he introduced similar legislation last year praising Mr. Franklin as the "most widely known and respected American throughout the 18th century." Well, Mr. President, it is only fitting that the bill introduced today include a small tribute to our departed friend Senator Heinz, as well.

As I mentioned, a percentage of the funds received by the Treasury will be directed to the National Association of State Fire Marshals to create the "John Heinz Memorial Scholarship Fund." This will help provide educational scholarships to the children and surviving spouses of firefighters and emergency medical personnel killed in the line of duty. Likewise, the fund will ensure a lasting tribute to Senator Heinz, a true friend and champion of the fire services, by enabling those individuals who suffer the loss of a parent or spouse to pursue certain educational opportunities they otherwise might not have.

Mr. President, this bill cannot adequately spotlight the bravery and outstanding character of our Nation's firefighters, as a movie like "Backdraft" manages so effectively to do, but it does what a film cannot: that is to provide the opportunity to fulfill their right to every advantage possible in conducting the daily business of saving lives and protecting property.

Mr. President, the time has come for us to recognize the contributions and importance of our fire service, and declare their right to be accorded every benefit possible in their dangerous line of work. By directing the Treasury to price these coins so that no costs may accrue to the U.S. Government, this legislation honors two great American public servants, benefits our firefighters, and avoids transferring the cost to the American taxpayer. I urge my colleagues to lend their support to this measure and join Senator BIDEN and myself in working for its enactment.●

By Mr. BAUCUS:

S. 1452. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on retail sales in liquors and beer, and to limit the period during which such tax may be assessed; to the Committee on Finance.

SPECIAL OCCUPATIONAL TAX

● Mr. BAUCUS. Mr. President, I rise to introduce legislation that will correct an injustice in our Tax Code. This injustice concerns the collection of a special occupational tax, with penalty and interest, from thousands of small businesses whose owners, with justification, had no idea that such a tax existed.

The Bureau of Alcohol, Tobacco and Firearms [BATF] is currently attempting to collect from small businesses back, sometimes decades old, occupational taxes, as well as penalty and interest. These occupational taxes are imposed on retailers of alcoholic beverages, including grocery stores and restaurants. While this tax has existed for many years, prior to 1989 it was not considered cost effective to enforce collection. Because collection was not enforced many businesses had no knowledge that any liability existed.

Prior to 1989 the tax was only $54 per year. In 1987 the tax was raised to $250 and BATF was put in charge of collecting back taxes, with penalty and interest, without regard to any statute of limitations. Small businesses are therefore being billed large amounts for back taxes that they did not know existed and did not intentionally avoid.

My legislation would waive all taxes, interest, and penalties incurred prior to the change in the law and enforcement policy. The legislation would also lower the tax rate on retailers to $165 per year.

I ask that my colleagues join me in support of this legislation which will provide a more equitable tax to small business owners who currently are being penalized unfairly without prior notification that the tax existed.

Mr. President, I ask 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. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION OF OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—Section 5121 of the Internal Revenue Code of 1986 (relating to imposition and rate of occupational tax on retail dealers) is amended by striking "$250" each place it appears and inserting "$165".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 2. LIMITATION ON ASSESSMENT PERIOD FOR OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—In the case of any tax imposed by section 5121 of the Internal Revenue Code of 1986, with respect to any taxable period beginning before January 1, 1989—

(1) no assessment of any such tax may be made after the date of the enactment of this Act,

(2) if such tax was assessed after December 31, 1987, and on or before such date of enactment, such assessment shall be abated, and

(3) if such tax was collected after December 31, 1987, and on or before such date of enactment as an overpayment.

(b) DEFINITION.—For purposes of paragraphs (1) through (3) of subsection (a), the term "tax" includes any interest, addition to tax, additional amount, or assessable penalty with respect to the tax.●

By Mr. WIRTH: (for himself, Mr. ROCKEFELLER, Mr. LAUTENBERG, Mr. AKAKA, Mr. MACK, Mr. PACKWOOD, Mr. SPECTER, and Mr. BOND):

S. 1453. A bill to prohibit the awarding of United States Government contracts to foreign persons that comply with the Arab boycott of Israel; to the Committee on Governmental Affairs.

ENDING THE ARAB BOYCOTT OF ISRAEL

Mr. WIRTH. Mr. President, I rise today to introduce legislation aimed at tightening currently existing U.S. antiboycott laws. I am joined in this effort by Senators ROCKEFELLER, LAUTENBERG, AKAKA, MACK, PACKWOOD, SPECTER, and BOND.

Since 1948, the Arab nations have imposed a boycott and embargo against Israel. Any company in the world that has trade relations with Israel or investments in Israel is barred from doing any business whatsoever with any Arab country—save for Egypt since the signing of the Camp David accords.

The Arab primary and secondary boycotts have been a shackle on the Israeli economy. Here at home, the boycott has meant suffering and economic losses for any American company that trades with Israel, or has a relationship with another company that itself trades with Israel. In short, the secondary, Arab boycott has put American companies refusing to comply with it at a tremendous competitive disadvantage.

Recently, at a meeting of the Arab League, 400 additional United States companies were added to the blacklist of those that are barred from doing businesss in the Arab world due to their trade relations—direct or indirect—with Israel.

I ask unanimous consent to have printed in the RECORD a partial list of the recently blacklisted American companies.

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

PARTIAL LIST OF U.S. COMPANIES BLACKLISTED BY THE ARAB LEAGUE

Accent International, Inc., Delaware.
Acme Services and Container Co., Michigan.
AEL Industries Inc.
Aetna Life and Casualty.
Aerodynamics Industries, Inc.
Agfa Gavart, New York.
Albi Enterprises Inc.
Aldrich Chemical Co. Inc.
All State.
Ambrint Sugars Inc.
Amerex Fire International, Inc.
American Systes Cope Makers Inc.
American Electronics Laboratories of Pennsylvania.
American Express.
American Motors General.
American Motors Corporation.
American Products Company.
American Task Terminals Inc.
Amplica Inc., California.
April Music Inc., Connecticut.
AGA-Alusirisse of America Inc.
Aluswiss Metal Inc.
Apex-Automotive Warehouse.
Aqua Chem Inc.
Armstrong Machine Works.
Arrow Inter-American Incorporation.
AT&T.
Atlantic Products of New Jersey.
Avis.
Avon.
Award.
Barreto Peat Inc.
Basco Division.
Baxter Laboratories.
Bell Laboratories.
Bellows Gin.
Bellows Vodka.
Bell Telephone Laboratories.
Barkan Ellerman.
Bio Lab Inc.
Black Box.
Blackword Music Inc., Connecticut.
Blue Flame Gas Corp., Delaware.
B&M Oil Inc.
Briggs and Stratton Corp.
Bulova.
Bulova Watch Company.
Butler King.
Calverpeat Inc.
Carte Blanche.
Cannon Group Inc.
C.B.S. Record Ltd., New York.
C.B.S.
C.B.S./EVR. Inc., New York.
C.B.S. Holt Group.
C.B.S. Films Inc., California.
C&C Manufacturing.
C.D.C.
Centronics Data Computer.
Chanel Industries Gas Corp.
C.M. Maryland and Sons.
Chapman Services Ltd.
Chromailey American Corp.
Chrysler.
Clayson Harvesters Equipment.
Cluett Peabody and Company.
Clupak Inc.
Coca Cola.
Colgate Palmolive.
Collins Pipeline Co.
Colt Industries.
Colt Industries Operating Corp.
Compugraphic International Corp.
Comsat.
C. General Corp.
C. General Integrated-Systems Inc., Texas.
Concept Industries.
Concept International Sales.
Condec Corp.
Connecticut General.
Consolidated Control Corp.
Consolidated Diesel Electric.
Continental Grain.
Controls Corp.
Conval Corp.
Conval Internatinal Ltd.
Conval Ohio Inc.
Convers Rubber Company.
Consolidated Aluminum.
Cooper Lazer Sonics.
Creative Playthings Inc.
Crosley International Inc.
C./Telesystems Inc.
Currier-Smith Corp.
C. World System Division.
Data International Corp.
David Mikel Inc.
Data Limited.
Daval Industries.
D.C.M. Trading Corp.
Del Monte Corp.
Alaska Packers Association.
California Pretzel Co. Inc.
Calpak Properties Inc.
Banana Processors Inc.
Southern Stevedoring.
Distribution Systems.
Northwest Arkansas Truck & Equipment Inc.
Boise Truck & Equipment.
Dondo Fairchild General Freight Inc.
De Law Cather.
Dexter Corp.
Distribution Management.
Direct Oil Inc., Florida.
Dover.
Doric Corp.
Dubledee Diamond Corp.
Du-Pont.
Dwyer Instruments.
East Tennessee Natural Gas, Tennessee.
E.I. dupont de Nemours.
Eltra Corp.
Eltran.
Emerald Trading Corp.
Endico Potatoes Corp.
Energy Products Holding Inc.
Eschem.
Ersh Inc., New York.
Esl Incorporated.
Esmark Inc.
Estech Inc.
Estech Internatinal Corp.
Estech Investment Inc.
Export Agencies Corp.
Fairbanks.
Fenchurch Risk Managers.
Fidelity Mutual and Mutual Life.
Field & Co. Fruit Merchants Ltd.
Field & Stream Popular Gardening.
5152 Ground Floor.
Filbrelite Corp.
Fisher Controls Co.
Fisher International.
Fisher Service.
Fisher Mills.
Ford Motors.
Foster Grant Co. Inc.
Gabriel Industry Inc.
G.A.P. Corporation.
Garland Industries.
Garlock.
G.D. Searle & Co.
Gemprint.
General Electric Corp.
General Form Plastics Corp.

General Form Corp., New York.
General Motors Overseas.
General Refractories Company.
General Telephone Electronics.
Genesco Inc.
Gerber Products.
Gilbey's Gin.
Graphic Credit Corp.
Granny Goose Foods Inc.
Great Lakes Container Corp.
Grefco Export Corp.
Grefco International Inc.
Grove International.
G.N.X. Export Corp.
G.T.E. International Inc.
G.T.E. Credit Corp.
G.T.E. Sylvania Inc.
G.T.E. System Security Products.
G.T.M. Dandy.
Guinnes Past Aviation.
Guit Company Inc.
Gulf & Western Industries.
Hammond Valve Corp.
Handleman Industries Inc.
Hans Corporation.
Hartol Petroleum Corp.
Harry Winston Inc.
Health Co. of Michigan.
Helena Rubenstein Inc.
Helene Curtis Inc.
Henry C. Lytton & Co.
Heritage Company of Houston.
Hertz Corp.
Hayden Newport Chemical Corp.
Heyward-Robinson Co. Inc.
H.F. Staiger Co. Inc.
H.I.C. Inc.
Hilton Hotels.
H.M.W. Industries Inc.
Holt Rinehart & Winston.
Home Insurance Co.
Horizon Industries Inc.
H.T. Gathering Co.
Hughes Aircraft Co.
Hughes Aircraft Systems.
International Mineral and Chemical.
International Playtex Co.
J.B. Williams Corp.
Keystone Lighting Corp.
Levi Strauss.
Lincoln Electric.
Mattel Inc.
Medtronic Inc.
Milwaukee Die Casting, Inc.
Monroe Auto Equipment.
National Packing Co.
NCR.
Newport News Shipbuilding & Drydock Corp.
New York Yankees.
Oak Creek Trucking Co.
Palmolive U.S.
Paramount Picture Corp.
Tenneco Chemicals.

Mr. WIRTH. Mr. President, I would also note that these companies are well known to many of my colleagues, who I am sure share my own concern about the disadvantage the boycott imposes on their constituents.

At a time when our Government is aggressively pursuing a peace process in the Middle East, further expansion of the Arab boycott is pure poison. We should bend every effort to reverse the harmful and unjust economic isolation of Israel. If the State Department is serious about "confidence building measures" in the Middle East, they could start by putting the full weight of the U.S. Government behind the effort to dismantle the Arab League boycott.

As we are trying to bring Israel and Arab countries alike closer to negotiations, the continuation and expansion of the boycott is a serious obstacle to real progress in the peace process. Mr. President, it is with regret that I point out that several of our coalition partners in the Persian Gulf war are among the most ardent supporters of the Arab boycott.

The position of this body on the boycott has been unequivocal. Congress has enacted legislation to prohibit American companies from boycott compliance. The Export Administration Act of 1977 and the Tax Reform Act of 1978 included strict antiboycott legislation.

My bill would expand currently existing laws to prohibit U.S. Government contracts to foreign firms that comply with the Arab boycott. It would require foreign firms bidding for U.S. Government contracts to certify during the normal application procedure that they do not comply with the Arab boycott. After all, the very government that enforces antiboycott legislation for its own American companies should not be in the business of rewarding foreign companies that comply with the boycott by allowing them to receive government contracts.

This legislation closes a loophole in our laws by focusing attention on foreign companies that are interested in doing business with our Government. In doing so, it sends a strong message to foreign countries that the Arab boycott is not tolerated in the United States.

I cannot think of a more timely occasion for introducing this legislation. The members of the G-7 are meeting this weekend for their annual economic summit. Eighty-three Senators yesterday sent a letter to the President urging him to raise this issue with his G-7 partners. I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 10, 1991.

DEAR PRESIDENT BUSH: As you prepare for the annual G-7 meeting of major industrialized nations, we urge you to make the Arab League economic boycott a high priority on the U.S. agenda. We urge you to press our G-7 allies in the strongest terms possible to end their compliance with the boycott.

Since the early 1950's, the Arab League has maintained a secondary and tertiary boycott which targets companies that do business with Israel or companies that do business with other companies involved with an Israeli company. This offends the very principles of free and open international trade espoused by the G-7 nations last year in Houston.

While the U.S. has enacted strict laws which prohibit U.S. firms from complying with the boycott, our major trading partners have taken no such action. Accordingly, U.S. firms vying for contracts are put at a competitive disadvantage with foreign companies because of the boycott restrictions. We must implore our trading partners to examine their own policies toward the boycott, and urge them to pass legislation which prohibits private sector compliance.

America and the industrialized nations of the world fought to preserve the national sovereignty of Arab nations faced with Saddam Hussein's aggression. It is inconceivable that they will not trade with companies which have business relations with Israel.

The U.S. cannot unilaterally succeed in this endeavor. In order to effectively stifle the coercive effects of the Arab boycott, we need the cooperation of our allies. They too should have laws that prohibit their companies from complying with the Arab boycott of Israel. During the war, we witnessed just how powerful the world community can be when it is unified. This issue is no different. It requires cohesion. If the industrialized countries are unified in their approach, the Arab countries can be convinced to lift their boycott against businesses that do have economic relations with Israel.

It is imperative that the U.S. provide the leadership and the vision at the G-7 conference to accomplish this goal. We look forward to working with you on these issues.

Sincerely,

Frank R. Lautenberg, Timothy E. Wirth, Joseph I. Lieberman, John D. Rockefeller IV, Larry Pressler, Dan Coats, Dennis DeConcini, Connie Mack, Bob Packwood, Charles E. Grassley, Daniel K. Akaka, John McCain, Daniel K. Inouye, Thomas A. Daschle.

Brock Adams, Sam Nunn, John Seymour, Bennett J. Johnston, John Glenn, Alan J. Dixon, Tom Harkin, Donald W. Riegle, Jr., Wendell H. Ford, Claiborne Pell, Alfonse M. D'Amato, Arlen Specter, Bill Bradley, Don Nickles, Jesse Helms, John F. Kerry.

Bob Graham, Howard M. Metzenbaum, Terry Sanford, Daniel Patrick Moynihan, Larry Craig, Conrad Burns, Nancy Landon Kassebaum, Quentin N. Burdick, Herb Kohl, George J. Mitchell, Charles S. Robb, Christopher J. Dodd, Alan Cranston, William S. Cohen, Richard Bryan, Earnest F. Hollings.

Barbara A. Mikulski, Paul S. Sarbanes, Max Baucus, Paul Wellstone, Jim Sasser, Dale Bumpers, Kent Conrad, James Exon, Harry Reid, Paul Simon, Carl Levin, Lloyd Bentsen, Albert Gore, Joseph Biden, Jake Garn, Robert J. Kerrey.

Hank Brown, Ted Stevens, Warren B. Rudman, Christopher S. Bond, Robert Smith, Robert W. Kasten, Jr., Robert Dole, Edward M. Kennedy, Howell Heflin, Phil Gramm, Mitch McConnell, Pete V. Domenici, Slade Gorton, Dave Durenberger, John C. Danforth, Richard G. Lugar, Wyche Fowler, Jr., Harris Wofford, Richard Shelby, John Breaux, Orrin Hatch.

Mr. WIRTH. Mr. President, at a time when our Government is aggressively pursuing a peace process in the Middle East, further expansion of the Arab boycott is pure poison. We should ban every effort to reverse the harmful and unjust isolation of Israel. If the State Department is serious about confidence building measures in the Middle East, they can start by putting the full weight of the U.S. Government behind the efforts to dismantle the Arab

league boycott. Yesterday 83 Members of the U.S. Senate signed a letter which I authored to the President asking him to raise this issue at the G–7 summit. It is important that we enlist the economic pressures not only of the United States but of the other major economic powers in the country to help move the Middle East away from this kind of economic confrontation and toward the sort of negotiation that we would all like to see. It is negotiation posture rather than a confrontation posture that I think all of us wish to see pursued post-Persian Gulf and post-Desert Storm. The opportunities are there, but unfortunately the recent actions by the Arab league appear to be dragging us in the opposite direction. I hope this legislation will head us in the right direction.

Mr. PACKWOOD. Mr. President, it is time to end the Arab League boycott of Israel and those companies who conduct business with Israel. The boycott of Israel continues to be a major obstacle for achieving peace in the region. American companies are unfairly penalized by the Arab boycott because U.S. law does not permit them to comply with the boycott. Foreign companies are not subject to similar restrictions and choose to comply with the boycott rather than lose business with the Arab world. In order to increase pressure on those foreign companies which comply with the Arab boycott, my colleagues and I are introducing a bill today which would require foreign companies who bid for U.S. Government contracts to certify they do not comply with the boycott of Israel.

Recently, the Arab League increased its list of American companies who do not comply with the boycott. A strong message is needed to inform the Arab League that it will not be business as usual after the Persian Gulf war. Recognition of Israel, the cessation of the constant state of belligerency against Israel, and the end of the Arab boycott are necessary and fundamental steps for the restoration of trade and the seeds of peace.

By Mr. SEYMOUR:

S. 1454. A bill to establish penalties for participation in illegal gang activity; to the Committee on the Judiciary.

PENALTIES AGAINST GANG VIOLENCE ACT

Mr. SEYMOUR. Mr. President, I rise today to introduce the Penalties Against Gang Violence Act of 1991—legislation that represents an additional chapter in my efforts to enlist the Federal Government to join forces with State and local government in their efforts to combat illegal gang activity.

For the past several months, Americans have lined the streets from Washington State to Washington, DC, waving to sons and daughters, fathers and mothers, neighbors and friends—the brave men and women of Operation Desert Storm. But each day, Americans in the south central section of Los Angeles stand on their neighborhood streets, but they stand in sadness, not in celebration. They stand to see friends and family as victims, not victors, of a different kind of war—a war in which a Los Angeles resident is more at risk of being a casualty than a member of the Armed Forces at the height of Desert Storm. The war I speak of is a gang war, its main combatants are known as Crips and Bloods, but they are Americans. And their victims are Americans.

Fueled primarily by drug trafficking, gang activity has brought destruction to parks, schools, and neighborhoods across my State of California. In the Los Angeles Country suburb of Compton, two students were seriously wounded, and two others were tragically killed on or near high schools as a result of gang activity this year. Indeed, in far too many Los Angeles high schools, gang violence is as common an event as a pep rally.

In my State capitol of Sacramento, Californians watched their TV's in horror as a youth gang opened fire on the hostages they were holding in an electronics store—just some of the thugs in a city reported to have more than 3,500 known gang members, some as young as 11 years old.

But violent gangs are not unique to California. Gang activity is a malignant tumor, a fatal cancer spreading across the United States. The California Department of Justice reported that from Dallas to Des Moines, from Phoenix, AZ, to Fayetteville, GA, the Crips and Bloods are infecting Main Street, U.S.A., with dangerous drugs and naked violence.

Combating this growing national epidemic requires national action. With the same resolve that Americans pledged to liberate Kuwait, we must work together to take back our schools, our parks, our streets. To win this war of mindless terror requires a coordinated effort from leaders of law enforcement, of communities, and of government.

That is why I joined with the distinguished senior Senator from Pennsylvania last month to introduced the Anti-Gang Violence Act of 1991, legislation to facilitate a united effort to combat gang violence.

This legislation enlists the Bureau of Alcohol, Tobacco and Firearms to work directly with State and local law enforcement to combat gang-related drug trafficking and violence, and strengthens Federal criminal penalties that will allow the Federal Government to make an effective strike against the spread of interstate gang violence.

But I believe that even further penalties are needed to strike at these ruthless gangs, and that is the purpose of the legislation I am introducing today. The Penalties Against Gang Violence Act effectively make participation in a gang that engages in criminal activity illegal. Anyone who takes action that helps a criminal gang can be put in prison for 3 years.

Anyone convicted of violating Federal law that is done to further criminal gang activity can face an additional 7 years in prison, and if that action results in serious bodily injury, the additional penalty can be as much as 12 years in prison.

If this legislation is enacted, you can bet that more of these gang thugs will be roaming the halls of Lompoc, rather than the streets of Los Angeles.

Taking on the toughest problems that we face on our streets requires the toughest response possible by all levels of government. And this legislation, as well as the Anti-Gang Violence Act, represent a tough and effective response by the Federal Government.

Several of my distinguished colleagues have also shown a strong interest in confronting gang violence. The senior Senator from Arizona [Mr. DECONCINI] has also offered an innovative antigang proposal that includes several of the provisions in the Anti-Gang Violence Act. It is my sincere hope that all of us will work together to send a comprehensive antigang bill to the President—one that includes tough penalties, law enforcement coordination programs, and community empowerment projects that help Americans take back their streets.

But, in all modesty, Mr. President, any comprehensive legislation we enact will not, by itself, be the solution to ending gang violence. It will not mean the end to Crips and Bloods—an end to the fear that forces families to hide in their very own homes.

The secret to victory in the streets of America can be found in the known secret to our victory in the desert valleys of Iraq: A resolve to restore liberty and justice—a spirit found deep within all law-abiding Americans. Those brave young men and women who we've saluted for this heroic victory in the desert are normal people: factory workers, bookkeepers, teachers, and clerks.

And we can best celebrate their victory in the desert by working together to achieve another heroic victory in the streets. By passing the Penalties Against Gang Violence Act, as well as other comprehensive antigang proposals, we will give Americans the tools to take back their streets and be the victors, not the victims of our fight against ruthless gangs.

By Mr. GRAHAM (for himself, Mr. GARN, Mr. REID, Mr. BRYAN, Mr. CRAIG, and Mr. SYMMS):

S. 1455. A bill entitled the "World Cup USA 1994 Commemorative Coin Act"; to the Committee on Banking, Housing, and Urban Affairs.

WORLD CUP USA 1994 COMMEMORATIVE COIN ACT

Mr. GRAHAM. Mr. President, I rise today to introduce a bill to authorize

the minting of coins commemorating the 1994 World Cup Games, which will take place in the United States of America. I am pleased to have the distinguished and ranking member of the Banking Committee and several of my Senate colleagues joining me as original cosponsors.

The World Cup Games will provide our Nation with a tremendous source of pride and glory. The games have invigorated nations with a peacetime comradery for 60 years. In 1994, the United States can for the first time foster this feeling on our own playing fields. Not only is it the first time we will host the competition, but this is our first opportunity to participate in the event.

The magnitude and importance of the World Cup Games is unequaled in the sporting world. The World Cup is the largest single-sport spectacle in the world—only the Olympic Games compare in scope and international interest. For example, the most recent World Cup, held in Italy in 1990, was viewed by a cumulative worldwide television audience of over 26 billion. The championship game itself was watched by 1.3 billion viewers, the largest live audience in history. In comparison, Super Bowl XXIV had an audience of 110 million.

We are immensely fortunate to be the host of an event with such extensive appeal. It is now time to move from feeling gracious to feeling driven, driven to make World Cup USA 1994 an exciting showcase to the rest of the world.

The bill I am introducing today will authorize the minting of coins to commemorate World Cup USA 1994. This bill will create gold, silver, and clad coins to be minted by the U.S. Mint and sold to the public in commemoration of this historic event. The revenue from the sales of these coins will be used principally to support U.S. efforts to host the games, and at no net cost to the Government. Currently, 2 dozen communities from 21 States nationwide, including 3 in my home State of Florida, are vying to host a portion of this historic event. The coin sales will help ensure that state-of-the-art facilities are in place in the host communities. In addition, 10 percent of the revenue will go toward scholarships awarded by the U.S. Soccer Federation Foundation.

In 1994, when the World Cup Games come to America, we will witness the birth of a relationship between world-class soccer and American hospitality. Congress has the opportunity to do its part with passage of the World Cup USA 1994 Commemorative Coin Act. America has been very successful in hosting major international sporting events, with the 1984 Olympic Games and the Pan American Games as the most recent achievements. This legislation will send a message to an expected live audience of 20 to 30 billion viewers, and to the athletes, that our Government is behind this effort to bolster worldwide athletic competition.

I urge my colleagues to join me in support of this bill. In doing so, they will be expressing their support for the spirit of competition, for pride in America, and for this inaugural effort to bring world-class soccer to America.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "World Cup USA 1994 Commemorative Coin Act."

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of Title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of Title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of Title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation of the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(b) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the enactment of this Act. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 5. SALE OF COINS

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

SEC. 6. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this Act shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities.

(c) BUREAUS OF THE MINT.—Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provision of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Organizing Committee. Such amounts shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with ten percent of such funds to be made available through the United States Soccer Federation Foundation, Inc. for distribution to institutions providing scholastic scholarships to qualified students.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage

profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) NO NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. ROTH:

S. 1456. A bill to amend the Internal Revenue Code of 1986 to restore foreign tax credits for taxes paid or accrued to Angola; to the Committee on Finance.

FOREIGN TAX CREDIT FOR TAXES PAID TO ANGOLA

• Mr. ROTH. Mr. President, yesterday, I told my colleagues in the Senate that, if the President moved to raise United States economic sanctions on South Africa, I would support him. I also informed my colleagues that it was my firm opinion that the President should demonstrate an even-handed approach to the Southern African region by lifting United States sanction now in place on Angola. Shortly after I spoke, the President announced his decision to move on South Africa. No parallel initiative was announced for Angola and, consequently, today I am introducing legislation to regularize this Nation's economic relations with Angola.

Mr. President, in submitting this legislation, I am motivated only in part by concern for our diplomatic position in southern Africa. I am, quite frankly, more concerned by our balance of payments and the need to maintain the competitiveness of U.S. companies operating overseas. The Angolan economy may be devastated by civil war, but its potential is enormous, largely because of that nation's huge oil and mineral resources. United States companies are eager to expand their operations in Angola, but they are severely hampered by the fact that discriminatory United States legislation effectively subject them to double taxation.

As a result of this double taxation, Mr. President, United States companies are severely hampered as they seek to compete with those European companies who are aggressively pushing into Angola. I should point out to my colleagues, in passing, that the EC never imposed any sanctions on Angola and European companies are now snapping up huge off-shore oil drilling concessions which, quite frankly, I would like to see go to United States companies.

Quite frankly, Mr. President, these European companies seem to know something that the United States Government does not, namely, that Angola's long civil war is over. The National Government, the popular movement for the liberation of Angola, the so-called MPLA, the former client of the Soviet Union, has signed the peace accords for Angola with the United States-backed national union for the total independence of Angola-UNITA. The accords provide for an internationally monitored cease fire, the opening up of national political life and internationally supervised national elections.

Mr. President, when the IPLA and UNITA were at war, I was a strong supporter of U.S. assistance to UNITA and an opponent of the MPLA. But I recognize that the situation has changed radically, and requires changes in U.S. policy.

Moscow is no longer capable of, or interested in, supporting the MPLA. As I have already mentioned, the two warring parties have agreed to settle their differences by submitting themselves to the electoral process. Under these circumstances, what is the rationale for our refusing to trade with Angola as we do with virtually every other nation in the world? I do not pretend to know who will win Angola's national elections but, presumably, no victorious party will wish to inherit an economic desert. Angola needs investment and development now, and United States companies need unfettered access to Angola now before all the plums are snatched up by their European competitors.

Consequently, Mr. President, I truly hope that the Senate will move swiftly on this matter. Certainly, I shall look for every opportunity to press the matter via the amendment process.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 1456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOREIGN TAX CREDIT FOR TAXES PAID TO ANGOLA.

(a) IN GENERAL.—Paragraph (2) of section 901(j) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR ANGOLA.—Notwithstanding clauses (i) and (iii) of subparagraph (A), this subsection shall not apply to Angola, unless the Secretary of State certifies to the Secretary of the Treasury that the Peace Accords for Angola, signed at Lisbon on May 31, 1991, by the President of the People's Republic of Angola and the President of the National Union for the Total Independence of Angola, are not being implemented."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.•

By Mr. GLENN (for himself and Mr. GRASSLEY):

S. 1457. A bill to amend the Older Americans Act of 1965 to assist older individuals to avoid falling and to prevent incorrect medication and adverse drug reactions; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 1458. A bill to amend the Older Americans Act of 1965 to authorize services relating to the appointment and monitoring of guardians, and of representative payees, of older individuals; to the Committee on Labor and Human Resources.

S. 1459. A bill to amend the Older Americans Act of 1965 to provide supportive services to strengthen informal caregivers who assist older individuals in need of long-term care to remain in private residences; to the Committee on Labor and Human Resources.

LEGISLATION AMENDING THE OLDER AMERICANS ACT

• Mr. GLENN. Mr. President, I strongly support reauthorization of the Older Americans Act which offers many valuable services to our Nation's senior citizens. Since it was first enacted in 1965, the Older Americans Act has provided a wide array of programs to seniors in their communities, programs such as congregate and home-delivered meals, home health care, transportation, legal services, and employment. The intent of these programs is to keep people as independent as possible, thus enhancing their quality of life.

This year, Congress will once again reauthorize the Older Americans Act. As part of this process, I am introducing three bills to amend the Older Americans Act which emphasize issues of particular concern to me—preventive health services, guardianships, and assistance for family caregivers. These bills, which are summarized below, have been introduced in the House of Representatives by Congresswoman OLYMPIA SNOWE.

PREVENTIVE HEALTH SERVICES FOR OLDER AMERICANS AMENDMENTS OF 1991

Health problems of older persons can be prevented or postponed through healthy lifestyles. Increasingly we are learning of the benefits of health promotion and wellness efforts even if they are begun in our older years.

This bill would strengthen preventive health services under the Older Americans Act by emphasizing services to prevent older individuals from falling in their homes, which often leads to fractures for people with osteoporosis; nutrition counseling for osteoporosis and cardiovascular disease; and medication management screening and education to prevent incorrect medication and adverse drug reactions.

I am pleased that Senator GRASSLEY has joined me in introducing this bill.

OLDER AMERICANS GUARDIANSHIP ASSISTANCE AMENDMENTS OF 1991

Approximately 500,000 Americans are currently under guardianship. These people, who have been found by a court to be unable to manage their own affairs, must transfer their legal rights, possessions, and decision-making power to another person. Action is needed to solve problems and protect against abuses in our guardianship system.

This bill would require the long-term care ombudsman program to include protection of the welfare and rights of residents regarding the appointment and activities of guardians and representative payees; authorize legal assistance programs to represent wards, and older individuals who seek to become guardians, if other adequate representation is unavailable in guardianship proceedings; and would authorize services to provide information and training for individuals to become guardians and representative payees of older individuals.

CAREGIVERS SUPPORTIVE SERVICES AMENDMENTS OF 1991

Over 80 percent of all care for the frail elderly is provided by family members. Because of our aging population, there is a great need for in-home and community-based services, including respite for caregivers, to help those who are providing the bulk of personal care for the elderly.

This proposal authorizes supportive services to strengthen caregivers, such as training, access to support groups, respite care and information, and referral for other services.

Mr. President, I urge my colleagues to join me in reaffirming our support for the Older Americans Act and for its primary goal of providing services to maintain the dignity and promote the independence of senior citizens.

I request that the text of the bills be printed in the RECORD at this point.

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

S. 1457

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 "Preventive Health Services for Older Americans Amendments of 1991".

SEC. 2. DEFINITION OF PREVENTIVE HEALTH SERVICES.

Section 363 of the Older Americans Act of 1965 (42 U.S.C. 3030o) is amended—

(1) in paragraph (3) by inserting "fall prevention and" after "programs on",

(2) in paragraph (4) by inserting "(with special emphasis on osteoporosis and cardiovascular diseases)" after "counseling",

(3) in paragraph (6) by striking "and" at the end,

(4) in paragraph (7) by striking the period at the end and inserting "; or" and

(5) by adding at the end the following:

"(8) medication management screening and education to prevent incorrect medication and adverse drug reactions.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by section 2 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

S. 1458

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 "Older Americans Guardianship Assistance Amendments of 1991".

SEC. 2. AMENDMENTS.

(a) DEFINITION.—Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(1) by redesignating paragraphs (14) through (21) as paragraphs (12) through (19), respectively, and

(2) by adding at the end the following:

"(20) The term 'representative payee' means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is by reason of a physical or mental incapacity unable to manage funds, any funds owed to such individual by such entity.".

(b) STATE PLAN.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended—

(1) in subparagraph (A)(i) by inserting before the semicolon the following: "(including the welfare and rights of such residents with respect to the appointment and activities of guardians and representative payees)", and

(2) in subparagraph (J)(iv)—

(A) in subclause (I) by striking "and" at the end,

(B) in subclause (II) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(III) if a legal guardian refuses to give such permission and if a representative of the Office (with reasonable cause to believe that such guardian is not acting in the best interests of the resident for whom such guardian is appointed) obtains the approval of the State Long-Term Care Ombudsman, access to such records as is necessary to investigate a complaint.".

(c) SUPPORTIVE SERVICES.—Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (6)—

(A) by inserting "to older individuals" after "provide", and

(B) by striking "including" and all that follows through the semicolon, and inserting the following:

"including—

"(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage; and

"(B) representation of wards (or individuals allegedly incapacitated), and of older individuals who seek to become guardians, if other adequate representation is unavailable in guardianship proceedings;",

(2) in paragraph (18) by striking "or" at the end,

(3) by redesignating paragraph (19) as paragraph (20), and

(4) by inserting after paragraph (18) the following:

"(19) services designed to provide information and training for individuals to become guardians and representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianship; or ".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by section 2 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

S. 1459

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 "Caregivers Supportive Services Amendments of 1991".

SEC. 2. DEFINITION OF SUPPORTIVE SERVICES.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (18) by striking "or" at the end,

(2) by redesignating paragraph (19) as paragraph (20), and

(3) by inserting after paragraph (18) the following:

"(19) services, such as information and referral, respite care, training, and access to support groups, designed to strengthen family members and volunteers who assist older individuals in need of long-term care (particularly older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction), to remain in private residences.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by section 2 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.•

By Mr. LEVIN (for himself and Mr. WOFFORD):

S. 1461. A bill to amend the Federal Deposit Insurance Act to require States whose State chartered financial institutions cause disappropriate Federal insurance losses due to inadequate State regulation, to pay an insurance premium as a condition of future Federal deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSIT INSURANCE PROTECTION ACT

• Mr. LEVIN. Mr. President, I am today introducing a bill to encourage stronger State oversight of State-chartered financial institutions which are federally insured. It's hard to believe that in the wake of the billion-dollar S&L bailout, guaranteeing effective State oversight has been largely ignored, but it has and that is the issue addressed in this bill.

Strong State oversight of State-chartered institutions is essential to protect taxpayer dollars at risk through Federal deposit insurance. Just look at the facts—approximately 67 percent of the federally insured commercial banks are State-chartered. The same is true for about 35 percent of the S&L's and about 30 percent of the credit unions. Together, these State-chartered entities comprise over 14,000 federally insured institutions with over $1.5 trillion in assets.

The S&L disaster has caused the closure of hundreds of State-chartered S&L's which, as of September 1990, are responsible for $33 billion of the S&L bailout costs. And the bailout amount

keeps climbing. If bank and credit union failures also continue, taxpayers could be saddled with tens of billions of dollars of more debt.

In the past few years, we have heard plenty about the importance and failings of Federal regulators whose job is to oversee federally insured financial institutions. GAO has told us that we need tougher examinations, earlier identification of problems, and quicker, no-nonsense intervention at troubled institutions. But what we haven't heard is a prescription for the same strong medicine to improve State oversight.

States play a crucial role in ensuring that financial institutions operate in a safe and sound manner. Federal bank regulators, for example, often rely on State examinations to flag problems in healthy banks. Federal S&L regulators may rely on State examinations for as long as 2 years for highly rated S&L's.

If a State fails to flag the problems in its healthy institutions, Federal regulators may be forced to pick up the pieces later, when the problems have worsened and, all too often, are more costly to cure. GAO has repeatedly emphasized the importance of early identification and intervention at troubled financial institutions, both to maximize the opportunity for corrections and to minimize the risk to taxpayers. Strong State oversight is an essential part of that early warning system.

Currently, the quality of State regulation varies from State to State. There are no mandatory Federal controls over State regulatory programs for financial institutions. Voluntary professional associations have certified only 21 State programs regulating banks and 5 State programs regulating credit unions. Not even a voluntary certification program exists for S&L's. And while most States use a standard examination for their credit unions, no standard examination exists for banks or S&L's.

Three recent examples illustrate the risks we face when State oversight of federally insured institutions is not as tough as it should be.

In the early 1980's, California-chartered S&L's experienced an explosion of growth at the same time as there were severe reductions in State regulation and oversight. According to a report by the California State Assembly entitled, "Mortgaging the Thrift Issue", February 1990, about half of the State-chartered S&L's switched to Federal charters in the early 1980's, to take advantage of the deregulation fever then sweeping Federal agencies. The report states that the loss of so many State-chartered S&L's caused a drop of more than 50 percent in the assessments these thrifts paid to the State regulatory authority, which in turn laid off more than half of its staff, including 60 examiners.

To stop the conversions to Federal charters, the report indicates that, in January 1983, California joined the deregulation game and loosened its restrictions on S&L investments. This strategy essentially halted new conversions, but failed to attract back most of the thrifts which had switched to Federal charters. Instead, the State was flooded with applications for new S&L's. The report states that the newly appointed State S&L commissioner approved 235 applications in about 13 months—compared to 46 approved in 1981 and 1982.

This action meant that the State was approving more new S&L's than it could oversee. The report indicates that, to keep up with the applications, State regulators, in 1983 and 1984, confined themselves to approving new charters and allowed Federal regulators to assume primary authority in examining existing State-chartered S&L's. It reports that State regulators even stopped receiving monthly loan register reports from the State-chartered S&L's, because they didn't have the resources to process the loan information. In an effort to halt the flood of new charter approvals, in 1985, the Federal Savings & Loan Insurance Corporation placed a moratorium on insurance for California State-chartered thrifts.

That course of State action was a recipe for disaster. The rapid approval of applications coupled with the sharp reduction of examination staff left the field wide open for abuse in California. And abuse there was, with some of the most flagrant examples we've seen in the whole sorry S&L saga.

But California is not the only State that engaged in lax oversight. A 1988 report prepared by the Texas Governor's task force on the Savings and Loan Industry reports that 95 percent of the State's problem financial institutions were State chartered. Together, as of September 1990, these institutions have caused 68 percent, or $22 billion, of the S&L bailout costs attributable to State-chartered thrifts.

As in California, during the 1980's, Texas not only deregulated its S&L's but also reduced its oversight functions. Texas was widely recognized among commentators for regulations which were among the most relaxed in the country at the time. The task force report indicates that, at the same time, State examination staff was cut, the number of examinations declined, and the State's supervision and examination capabilities remained weak due to such factors as inadequate funding, industry domination of the administrative process, and a poor selection for the State S&L commissioner.

Weak State regulation was particularly significant at the time, because, in 1983, Federal regulators were in a period of reorganization due to a decision to move the Federal Home Loan Bank's regional headquarters from Little Rock, AR, to Dallas. This move required the Federal office to rebuild its examination staff and operations at a time when S&L growth was rampant, deregulation had taken hold, and abuses had begun. The task force report estimates that 98 percent of the problems that now exist in Texas S&L's were created between 1982 and 1985, a period during which, it states, there was little cooperation between State and Federal regulators, and staffs were ill-equipped and unprepared to handle the consequences of Federal and State deregulatory actions. The report notes that Texas' relaxed regulatory atmosphere coincided with a staggering 186-percent growth rate in its federally insured, State-chartered thrifts.

Of course, it is the taxpayers throughout the country—not just Texans—that have been left holding the bag for that period of weak State oversight of federally insured S&L's in Texas.

A final example involves Rhode Island. In this instance, the deposit insurance disaster that hit the State has not yet reached the pockets of Federal taxpayers—although it still may—because a private entity was insuring the State's banks and credit unions.

In this example, State officials had explicit and early knowledge of the serious problems facing its banks and credit unions, but took little action in response. Reports prepared in 1985 and 1986 for the State attorney general and Governor—years before the disaster hit—predicted the collapse of the private deposit insurance system and cited rampant and unorthodox accounting [and] management practices at State-chartered financial institutions, including loose lending limits, poor investment standards, corrupt loan practices, and poor regulation.

Despite these reports, Rhode Island State officials essentially sat on their hands. One of the few tactics tried was to determine whether the State could pass the problems on to the Federal Government by replacing the private insurance with Federal deposit insurance. Luckily for the rest of us, that didn't happen.

In December 1990, rumors of embezzlement finally led to a run on the State's privately insured banks and credit unions. Rhode Island had to close 10 banks and 35 credit unions on a temporary or permanent basis to stop the panic. When it realized the predicted collapse had taken place and that a bailout was needed, in a February 1991 hearing before the Senate Banking Committee, Rhode Island's officials asked to help finance the State bailout. That request is still pending.

These three examples have common themes: they illustrate the importance of State-chartered institutions, the magnitude of the risk to Federal taxpayers, and the importance of State oversight. In each instance, through in-

action or inadequate oversight, States contributed to the collapse of their institutions and the need for a Federal bailout.

Despite the obvious importance of the issue, strengthening State regulation of federally insured institutions has been largely forgotten in the debate over deposit insurance reform.

During the 1980's, fraudulent, abusive, or risky financial practices occurred right under the noses of State regulatory authorities. In some cases, the regulators were aware of the problems, in others they were not, but in every case, they apparently did not have enough of an incentive to get tough. We need to give them more of an incentive.

The Deposit Insurance Protection Act would directly address that issue—not by imposing mandatory Federal controls over State programs, but by providing a monetary incentive for strong State oversight—an insurance premium which a State would pay if its State-chartered institutions caused large Federal deposit insurance losses and if poor State regulation were a contributing factor.

This insurance premium would operate in a manner similar to car insurance. In most States, individuals with a poor driving record pay a higher insurance premium. Here, States with a record of disproportionate losses and poor State regulation would pay a premium for their State-chartered institutions to obtain Federal deposit insurance. This premium would not only increase equity within the program by requiring States with large losses to help pay for those losses, but also, it would create an incentive for States to police their banks and S&L's more carefully to prevent losses from occurring in the first place.

The bill would also impose a special, one-time premium on States whose S&L's have caused disproportionate Federal insurance losses in the S&L bailout. This premium would serve as a warning to all States to strengthen their regulatory programs. It would also ease the tax burden on States whose S&L's were problem free, by requiring States whose S&L's caused disproportionate losses to pay an added amount to help satisfy the billion-dollar S&L debts now facing American taxpayers.

Mr. President, as long as States play a crucial role in regulating federally insured, State-chartered institutions, it is our responsibility to encourage effective State oversight—both to promote the financial well-being of our country and to protect taxpayer dollars desperately needed for purposes other than bailouts of poorly run or fraudulent financial institutions. I hope my colleagues will join me in providing a greater incentive for stronger State oversight.

I ask unanimous consent that a summary of the bill's provisions and the text of the bill itself be printed in the RECORD immediately following my remarks.

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

S. 1461

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 "Deposit Insurance Protection Act of 1991".

SEC. 2. DETERMINATION OF STATE PREMIUMS FOR FEDERAL DEPOSIT INSURANCE.

Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended by adding at the end the following new paragraph:

"(11) DETERMINATION OF STATE PREMIUMS FOR FEDERAL DEPOSIT INSURANCE.—

"(A) DETERMINATION OF STATE RESOLUTION COSTS AND DEPOSITS.—

"(i) STATE RESOLUTION COSTS.—Not later than 90 days after the end of each calendar year beginning with the end of calendar year 1994, the Corporation shall determine the aggregate of the amounts expended during the previous 3 years by the Savings Association Insurance Fund, Bank Insurance Fund, and National Credit Union Share Insurance Fund, in providing assistance for case resolutions and other assistance with respect to all State-chartered financial institutions, that—

"(I) were then insured by the Federal Deposit Insurance Corporation or National Credit Union Administration; or

"(II) were members of the Savings Association Insurance Fund, Bank Insurance Fund, or National Credit Union Share Insurance Fund.

The Corporation shall classify such expenditures according to the Fund that expended them during such period.

"(ii) STATE DEPOSITS.—Not later than 90 days after the end of each calendar year beginning with the end of calendar year 1994, the Corporation shall determine the aggregate of the amounts of the deposits in all such State-chartered financial institutions during such 3-year period. The Corporation shall classify such deposits according to the Fund that insured them during such period.

"(B) APPORTIONMENT OF STATE RESOLUTION COSTS AND DEPOSITS AMONG THE STATES.—After making the determinations required by subparagraph (A) for the 3-year period described in subparagraph (A), the Corporation shall apportion among the States the amounts so determined, according to the expenditures made and the deposits insured during such period with respect to the financial institutions described in subparagraph (A) located in each respective State. The Corporation shall classify, for each State, such expenditures and deposits according to the Fund that expended or insured them.

"(C) PREMIUMS REQUIRED FROM HIGH RISK STATES.—

"(i) PAYMENTS.—In separate transactions for each Fund, each high risk State shall pay to the Corporation an insurance premium in an amount equal to 25 percent of the product of—

"(I) the State's percentage share of state resolution costs, minus 2 times the State's percentage share of State deposits during the 3-year period; and

"(II) the expenditures determined by the Corporation under subparagraph (A)(i) with respect to such Fund.

"(ii) FUND DEPOSITS.—The Corporation shall deposit any such premiums in the Fund which made the relevant expenditures in providing assistance for case resolutions and other assistance with respect to the financial institutions located in such State.

"(D) HIGH RISK STATES.—A State is a high risk State for purposes of this paragraph if, with respect to a particular Fund—

"(i) the State's percentage share of State resolution costs during the 3-year period exceeds 2 times the State's percentage share of State deposits during such 3-year period, and

"(ii) the Corporation or National Credit Union Administration has determined with respect to the Fund it administers that inadequate State regulation of the State-chartered financial institutions in such State contributed to the amount of expenditures made by such Fund with respect to such financial institutions.

A State may be a high risk State with respect to one or more Funds.

"(E) STATE PERCENTAGE SHARE OF STATE RESOLUTION COSTS.—For purposes of this paragraph, the term 'State's percentage share of State resolution costs' means, with respect to a particular Fund—

"(i) the expenditures apportioned to the state under subparagraph (B); divided by

"(ii) the aggregate expenditures determined under subparagraph (A)(i).

"(F) STATE PERCENTAGE SHARE OF STATE DEPOSITS.—For purposes of this paragraph, the term 'State's percentage share of State deposits' means, with respect to a particular Fund—

"(i) the deposits apportioned to the State under subparagraph (B); divided by

"(ii) the aggregate deposits determined under subparagraph (A)(ii).

"(G) FUND.—For purposes of this paragraph, the term 'Fund' means the Savings Association Insurance Fund, Bank Insurance Fund, or National Credit Union Share Insurance Fund.

"(H) SPECIAL NON-RECURRING PREMIUM.—

"(i) IN GENERAL.—Not later than 90 days after January 1, 1994, the Corporation shall calculate a special, non-recurring insurance premium for the States which will take into account Federal resolution and assistance costs from 1988 until 1992, with respect to State-chartered savings associations.

"(ii) CALCULATION OF PREMIUM.—To calculate the premium described in clause (i), the Corporation shall—

"(I) determine the aggregate of the amounts expended during the 5-year period beginning on January 1, 1988, and ending on December 31, 1992, in providing assistance for case resolutions and other assistance with respect to all State-chartered savings associations during such period that were insured by the Federal Savings and Loan Insurance Corporation or that were members of the Savings Association Insurance Fund;

"(II) determine the aggregate of the amounts of insured deposits in all such State-chartered savings associations in 1980; and

"(III) apportion among the States the amounts to determined, according to the expenditures made during such 5-year period and the deposits insured during 1980, with respect to such savings associations located in each respective State.

"(iii) EXPENDITURES BY RTC, FSLIC RESOLUTION FUND, AND OTHER APPLICABLE AGENCIES TAKEN INTO ACCOUNT.—In making the determination under clause (ii)(I) of the amounts expended in providing assistance for case resolutions and other assistance with respect to institutions described in such clause, assistance provided by the Federal Savings and Loan Insurance Corporation, the FSLIC Res-

olution Fund, the Resolution Trust Corporation, the Federal Home Loan Bank Board, any Federal home loan bank, and any other appropriate Federal agency shall be taken into account by the Corporation.

"(iv) PAYMENT OF SPECIAL PREMIUM.—Not later than December 31, 1994, each high risk State shall pay to the Corporation a special, nonrecurring insurance premium in an amount equal to 25 percent of the product of—

"(I) the State's percentage share of State resolution costs during such 5-year period, minus 2 times the State's percentage share of State deposits in 1980; and

"(II) the expenditures determined by the Corporation under clause (ii)(I) above.

"(v) HIGH RISK STATE.—For purposes of this subparagraph, a high risk State is any State described in subparagraph (D), except that the relevant period for determining the State's percentage share of State resolution costs shall be the 5-year period beginning on January 1, 1988, and ending on December 31, 1992, and the relevant period for determining the State's percentage share of State deposits shall be calendar year 1980.

"(vi) STATE'S PERCENTAGE SHARE.—For purposes of this subparagraph,

"(I) the term 'State's percentage share of State resolution costs' means the expenditure apportioned to the State under clause (ii)(III), divided by the aggregate expenditures determined under clause (ii)(I); and

"(II) the term 'State's percentage share of State deposits' means the deposits apportioned to the State under clause (ii)(III), divided by the aggregate deposits determined in clause (ii)(II).

"(vii) DEPOSITS INTO SAIF.—The Corporation shall deposit any such premiums in the Savings Association Insurance Fund, and the amount of such deposits shall be included in the total amount of deposits, if any, required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to be deposited into such Fund by the Department of the Treasury.

"(I) PREMIUM PAYMENT TERMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the premium required of any State under subparagraph (C) shall be due at the end of the 6-month period beginning on the date the Corporation determines the apportionment to the State under subparagraph (B).

"(ii) MULTIYEAR AGREEMENTS.—A high risk State may enter into an agreement with the Corporation to pay a premium determined under subparagraph (C) or (H), with interest accruing in accordance with section 3717(a) of title 31, United States Code, for no longer than the 3-year period beginning on the date on which such premium would otherwise be due under clause (i), and such State shall be treated as meeting the requirements of this paragraph so long as such State is in compliance with the terms of such agreement.

"(J) TERMINATION OF INSURANCE IF STATE FAILS TO PAY REQUIRED PREMIUMS.—

"(i) IN GENERAL.—If any State fails to pay the premium required of such State under subparagraph (C) or (H) with respect to a particular Fund, the Corporation or National Credit Union Administration, whichever administers such Fund, shall terminate the corresponding deposit insurance for State-chartered financial institutions located in such State at the end of the 6-month period beginning on the date the premium was due under subparagraph (C) or (H).

"(ii) TRANSITION RULE.—Notwithstanding clause (i), after termination of the insured status of any financial institution under this paragraph, the insured deposits of each depositor in such institution on the date of such termination, minus all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of 2 years and the financial institution shall continue to pay assessments to the Corporation or National Credit Union Administration, as if the institution were an insured financial institution during such period.

"(K) NOTICE TO DEPOSITORS.—The Corporation or National Credit Union Administration shall require the financial institutions chartered by any State which fails to pay the premium required of such State under subparagraph (C) or (H) to the Fund administered by the Corporation or Administration to notify the depositors in such institutions that—

"(i) the deposits made in such institution before the end of the 6-month period described in subparagraph (J)(i) will continue to be federally insured during the 2-year period beginning at the end of such 6-month period; and

"(ii) the deposits made in such institution after the end of such 6-month period will not be federally insured.

"(L) RESTORATION OF INSURANCE.—If pursuant to this paragraph the Corporation or National Credit Union Administration terminates deposit insurance for State-chartered financial institutions in any State, such insurance may be restored by the Corporation or National Credit Union Administration only if—

"(i) such State has paid all of the premiums required of the State under this paragraph, with interest accruing in accordance with section 3717(a) of title 31, United States Code, and

"(ii) the Corporation or National Credit Union Administration determines that such State has taken measures to provide adequate State regulation of such State-chartered financial institutions located in such State.

"(M) COOPERATION.—The National Credit Union Administration, the Board of Governors of the Federal Reserve System, Department of Treasury, other Federal agencies and corporations, and the States shall cooperate with and provide information requested by the Corporation to carry out the purposes of this paragraph.".

SUMMARY OF DEPOSIT INSURANCE PROTECTION ACT OF 1991

The Deposit Insurance Protection Act of 1991 would amend the Federal Deposit Insurance Act to require sttaes to pay a federal insurance premium if, during the prior three-year period: (1) the state-chartered financial institutions in the state caused large federal insurance losses, and (2) the federal insuring agency found that "inadequate state regulation" of these institutions during that period "contributed" to those losses. In addition, the bill would require states to pay a special, one-time premium based on federal insurance losses from 1988 to 1992, due to the S&L bailout.

Purpose. The bill's goal is to enourage strong *state* oversight of *state-chartered* financial institutions which are *federally* insured. The incentive used is a monetary one—an insurance premium which the state itself must pay in the event of large losses and inadequate state action.

Coverage. The bill would apply to state-chartered banks, S&Ls and credit unions, if they are federally insured. The premiums would be based upon losses experienced by the three federal insurance funds for these institutions (the Bank Insurance Fund, Savings Associations Insurance Fund and National Credit Union Share Insurance Fund). A premium would be triggered if the Federal Deposit Insurance Corporation (FDIC) determined that a state's insured institutions caused disproportionate losses to a particular fund, using a formula that would require the losses to that fund to be more than twice as large as the deposits insured in that state by that fund. The FDIC or National Credit Union Administration (NCUA) would also have to find inadequate state regulation of its insured institutions.

States with large losses and inadequate regulation would become "high risk states" with respect to a particular fund and would become subject to an insurance premium. The amount of this premium would vary according to the losses caused by the state's institutions during the relevant three-year period. The state would pay the premium to the FDIC which, in turn, would deposit it into the federal insurance fund that incurred the losses.

Eligibility for Insurance. A state could choose not to pay a premium but, if it did so, its state-chartered institutions would become ineligible for the relevant federal deposit insurance. Terminated insurance could be restored only if the state paid the premium owed, and the FDIC or NCUA determined that the state had taken steps to provide adequate regulation of its state-chartered institutions.

Special Premiums. The bill would also impose a special, one-time premium on states whose S&Ls caused disproportionate insurance losses during the five-year period, 1988–1992, resulting in the S&L bailout costs now being paid by federal taxpayers. The amount of this one-time premium would be based upon the amount of losses caused by a particular state's S&Ls during the five-year period.

Comparison to 1990 Senate Bill. This bill differs from related legislation introduced in 1990 as S. 2885, the State Thrift Deposit Insurance Premium Act, in three major respects:

(1) *Coverage.* Last year's bill applied only to S&Ls; this bill applies to S&Ls, banks and credit unions.

(2) *Threshold Finding.* Last year's bill did not require a specific finding of inadequate state regulation to trigger a premium; this bill does.

(3) *Base Year.* Last year's bill used 1980 as a base years of determining which states pay premiums and for calculating the premium amounts; this bill relies upon progressive three-year periods instead of a base year for its calculations, except with respect to the one-time premium related to the S&L bailout.•

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. STEVENS, and Mr. BENTSEN):

S. 1462. A bill to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes; to the Committee on Commerce, Science, and Transportation.

AUTOMATED TELEPHONE CALL PROTECTION ACT OF 1991

Mr. HOLLINGS. Mr. President, today I am introducing the Automated Telephone Call Protection Act of 1991. This bill will ban computerized telephone

calls to the home and so-called junk fax. Computerized calls are the scourge of modern civilization. They wake us up in the morning; they interrupt our dinner at night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone right out of the wall.

The telephone is a basic necessity of life. You cannot get along in this country if you do not have a telephone in your home. However, owning a telephone does not give the world the right and privilege to assault the consumer with machine-generated telephone calls. These calls are a nuisance and an invasion of our privacy.

Believe it or not, these calls have their defenders. A few months ago, the Chairman of the FCC testified that this was an area where the market would regulate itself. If no one listens to these calls, he said, then telemarketers will stop making them. I know how the free market operates, and in this case it works to the detriment of 99 percent of Americans. Even if 1 percent of the American public actually listens to these calls, that is no justification for allowing these calls to ruin the lives of the rest of us.

Some may argue that there are first amendment problems with this bill. The bill I am introducing today falls well within the scope of the first amendment. The first amendment allows the government every right to place reasonable time, place and manner restrictions on speech when necessary to protect consumers from a nuisance and an invasion of their privacy.

This bill makes not distinction based on the content of the speech. It bans automated calls, regardless of whether they are used for commercial, political, or charitable purposes. The bill does not ban the message; it bans the means used to deliver that message—the computer voice.

Further, the bill does not ban all automated calls. Persons at work do not have the same expectation of privacy as persons at home; therefore, the bill only bans such calls to the home. In addition, if a person consents to receiving such calls, of course, that permission is granted. Finally, this bill does not prohibit the use of computerized calls to notify parents when the school closes early or for other government purposes. This bill is purely targeted at those calls that are the source of the tremendous amount of consumer complaints at the FCC and at the State commissions around the country—the telemarketing calls placed to the home.

The bill also prohibits unsolicited advertisements sent to fax machines, known as junk fax. Advertisements today are sent for cruises, home products, investments, and all kinds of products and services without the consent of the person receiving them. These unsolicited advertisements prevent the owners from using their own fax machines for business purposes. Even worse, these transmissions force the recipient to pay for the cost of the paper used to receive them. These junk fax advertisements can be a severe impediment to carrying out legitimate business practices and ought to be abolished.

The bill also contains protections for emergency telephones and cellular and paging systems from these automated calls. These prohibitions are essential to ensuring that the safety of lives and property are not put at risk by these machines. These computers often call and then do not hang up the line. In some cases, the computer will ramble on for a full minute or longer after the person called hangs up. This can prevent the person called from using the telephone at all, which is of special concern in emergency situations. As a result, the bill requires automated calls to disconnect the telephone within 5 seconds of the time the machine is notified that the called party has hung up the phone.

Mr. President, it is not often that Congress is required to step in to legislate against certain technologies. This is an unusual case, however, that requires congressional action. These calls are a nuisance and must be controlled. We have given the free market the chance to regulate itself, but it has not. These calls continue to proliferate beyond our control. The FCC will not do anything about these calls; the States have tried to regulate in this area but do not have authority over interstate calls. It is time Congress faced up to its responsibilities to protect the American consumer. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today be printed in the RECORD following my statement.

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

S. 1462

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 "Automated Telephone Consumer Protection Act".

SEC. 2. RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 228. RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.

"(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; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line.

"(3) 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 without that person's prior express invitation or permission.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States—

"(1) to make any call using any automatic telephone dialing system, telephone facsimile machine, or an artificial or prerecorded voice—

"(A) to any emergency telephone line 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 or cellular telephone service;

"(2) to initiate any telephone call to any residence using an artificial or prerecorded voice to deliver a message without the prior, express, written consent of the called party, unless the call is initiated by a public school or other governmental entity; or

"(3) to send an unsolicited advertisement by a facsimile machine.

"(c) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system (to make any telephone solicitation) in a manner that does not comply with such standards; or

"(B) 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, the date and time it is sent and an identification of the business sending the advertisement and the telephone number of the sending machine or of such business.

"(2) 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—

"(A) is manufactured after 6 months after the date of enactment of this section, and

"(B) is used for the distribution of unsolicited advertising,

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 sending the advertisement, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 18 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.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the

message, state clearly the identity of the business initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time the system receives notification that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(d) 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; and

"(2) the use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(e) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of subsection (b) shall take effect 30 days after the date of enactment of this section, and all other provisions of this section shall take effect upon such date of enactment.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "and 225" and inserting in lieu thereof ", 225, and 228".

By Mr. BREAUX (for himself, Mr. LOTT, Mr. JOHNSTON, Mr. SHELBY, Mr. CRAIG, Mr. INOUYE, Mr. NICKLES, Mr. PACKWOOD, Mr. STEVENS, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SYMMS, Mr. WALLOP, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. HELMS, Mr. COCHRAN, Mr. MCCONNELL, and Mr. BOND):

S. 1463. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands in the United States, and for other purposes; to the Committee on Environment and Public Works.

COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT

Mr. BREAUX. Mr. President, I rise today to introduce the Comprehensive Wetlands Conservation and Management Act of 1991. Joining with me as original cosponsors are Senators JOHNSTON, LOTT, SHELBY, INOUYE, CRAIG, NICKLES, PACKWOOD, STEVENS, MARKOWSKI, SIMPSON, SYMMS, WALLOP, HATCH, GARN, BURNS, HELMS, MCCONNELL, and COCHRAN. This bill is identical to H.R. 1330, which was introduced in the House and currently has 150 cosponsors from 38 different States. In addition, the concepts of this bill are supported by over 90 organizations nationwide. I stress that this bill is only a starting point, its concepts of establishing a national wetlands regulatory program through a statutory definition of "wetlands," classification of wetlands by function of value, resolving the respective roles of the Federal agencies, and recognizing private property rights are all key concepts. However, the particulars in this bill will need to be further refined through the regulatory process. The important thing is that we have to start somewhere, we need to establish a national wetlands policy.

Mr. President, this Nation needs a national wetlands policy. As we all know, much has occurred in the last 2 years to raise the wetlands policy issue to a new level of public scrutiny. The Nation is becoming increasingly aware of the problem of wetlands loss; these areas are recognized as vital to the well being of the ecosystem as a whole. At the same time, severe conflicts are occurring with increasing frequency in the administration of the Federal Wetlands Regulatory Program.

While Federal agencies are cracking down on our constituents for dredging and filling wetlands, wetlands are being converted at a rapid rate by other—not regulated—means such as excavation, channelization, and drainage. Only yesterday, the EPA Administrator, Bill Reilly said that last year 290,000 acres of wetlands were converted, and less than 20 percent were permitted, because less than 20 percent were converted as a result of dredging and filling. This is not because of lack of enforcement, it is because section 404 was not intended to be a wetlands regulatory program. Beating on the Federal agencies for tougher enforcement of this program will not stop wetlands loss; the problem is with the statute. Section 404 of the Clean Water Act was not intended to be a wetlands regulatory program; if it had been, we would have regulated many activities that continue to cause the destruction of wetlands to this day. Congress can no longer keep its head in the sand while the courts and Federal agencies make piecemeal wetlands policy. The heightened frustration of our constituents and rapid wetlands loss demands that Congress take action. We need a national wetlands policy. Established not by unelected bureaucrats, but by the elected representatives of the people—the Congress.

There are several vital interests at issue here: the protection of the Nation's wetlands resource base; continued reasonable economic development—including the provision of infrastructure; and, the obligation in the law and policy of this country to observe private property rights. This bill identifies many key issues facing the regulated community and proposes some potential solutions. These recommendations provide the starting point for a reasoned debate on wetlands policy issues. This bill provides the vehicle—a starting point—for creating a more flexible, responsible, and less intrusive approach to wetlands protection; it challenges us to address the very difficult task of protecting wetlands and protecting property owners.

Important measures, which I supported, have been taken already to restore and enhance wetlands. The 1990 Farm Bill Amendments were passed to help reduce the major cause of wetlands loss in this country according to the OTA—conversion of wetlands to croplands. Legislation I authored last year provided funding for major restoration activities to address another critical problem—coastal erosion nationwide. The North American Wetlands Act also advanced the conservation effort by instituting a broad acquisition program to protect the Nation's highest value wetlands. The problems of loss and restoration, however, clearly are only part of the problem. Losses of future wetlands must be regulated, we must have in place a national wetlands policy.

Such a policy must be reasonable and it must be balanced. We have all heard wetlands permitting "horror stories." For example, the Louisiana Land & Exploration Co. experienced significant delays in obtaining permits for actions that were necessary to protect its wetlands from saltwater intrusion and other problems. The state of the science may not yet support a reliance on wetlands creation efforts, but when an individual like Melvin Domingue of St. Martin Parish, LA attempts to turn a dumpsite into a crawfish pond that also serves important wetlands values and functions, and is subsequently ordered to return the area to its original condition—a dumpsite—based on the "first strike, you're out" avoidance test of the section 404(b)(1) guideline's sequencing policy—it becomes apparent that a more balanced approach to wetlands regulation needs to be implemented.

In Testimony before the Environment and Public Works Committee's subcommittee on environmental protection on June 20, the distinguished senior Senator from Alaska gave several examples of the ridiculous decisions that result from current application of section 404 of the Clean Water Act. The American Farm Bureau Federation also suggested not only that overzealous implementation of section 404 caused waste and unnecessary delay, but also caused significant environmental destruction through efforts to avoid relatively minimal wetland loss. Stories like these abound throughout the country, many compelling ones as well as others that are refutable, indicating that the problems we hear about are not simply abnormalities. The need for fairness and a greater degree of certainty in the wetlands permitting process demands the attention of Congress.

One key concept is the definition of a wetland. Section 404 has developed a jurisdictional reach far more expansive than originally conceived by Congress. Many areas of minimal wetness or with temporary wetness have become subject to permitting requirements, including lands that are temporarily or

unintentionally created as a result of adjacent development activity. Meanwhile, Congress' failure to expand the universe of activities subject to permitting requirements has tied the hands of regulatory agencies, forcing them to stand idly by when indisputably valuable wetland areas are made subject to channelization, excavation, and drainage. This state of affairs does not reflect effective wetlands policy guidance by this legislative body. We need to define wetlands in a manner that makes sense and that provides certainty to the regulated community. This bill suggests the requirement of clear evidence showing all three technical elements of a wetland: hydric soils, hydrophytic vegetation, and hydrology. A reasonable period of inundation at the surface would also provide sufficient advance notice to the public.

Another important area of concern is the dual role section 404 creates for the EPA and the Army Corps of Engineers in wetlands regulation. This arrangement has led to confusion, inordinate delays, and wasted resources; although the agencies continue their efforts to reconcile their differences, the current Corps/EPA framework remains a bureaucratic black box for applicants. Consolidating permit authority in one agency would solve this problem. Some argue that EPA should be in charge since it supports the "public interest." I submit that the regulated community is also the "public" and they believe that their view of the public interest is best served by regulatory authority given to the corps. Moreover, the EPA does not have steller record on wetlands protection. They do not even have an office in Louisiana, a State with 40 percent of the coastal Nation's wetlands.

Although I do not necessarily support a diminished role for the EPA—since EPA provides necessary input, along with both the Fish and Wildlife Service and the Soil Conservation Service—the fact remains that the corps has more field-personnel trained in wetlands regulation methods. Over 1,000 individuals are employed on the corps' regulatory staff today, and that amount will increase to 1,250 by the end of 1993. These regulators are not yet equipped to make the important and complex value decisions necessary for wetlands protection; what they need is clear policy guidance from Congress, not the threat of a veto by the EPA.

Categorization—or classification—of wetlands is another idea whose time has come; this is a particularly important component in any effort to construct a proper wetlands regulatory regime. It is clear to me that not all wetlands are created equal—a Superfund site that exhibits wetland characteristics simply does not have the same value as a pristine cyprus marsh. An undeveloped lot in a fully developed subdivision should not be regulated with the same strigency as a pristine marsh. Although opponents of the categorization provisions in this bill have decried the evil threat posed to our Nation's wetlands, EPA Administrator Reilly testified that "incorporating a more explicity form of wetlands categorization into the section 404 program is conceptually appealing. It could bring more consistency and predictability to the regulatory program. It could also serve as a means to provide more efficient protection of the Nation's most valuable wetlands."

This bill proposes three types of wetlands: highest value "type a" wetlands, were only an overriding public interest—possibly through application of the current EPA sequencing test—would justify a permit; lower priority "type B" wetlands, where permits are granted only when the protection of wetlands functions and values is adequately balanced under the proposed activities; and insignificant "type C" wetland areas, which do not require permits but can be subject to monitoring and notification requirements as a protective measure. Categorization of our national wetlands resources does not have to be preformed precisely as set forth in this bill, but must be adopted to strike the proper balance of protecting valuable wetlands while also protecting private property rights.

One final area of concern, though not exhaustive of wetlands regulatory issues, is compensation for landowners. The current program has, in many cases, effectively denied landowners the use of their lands without providing compensation. In mid-June during deliberations on the highway bill, the Senate adopted the Symms-Boren Private Property Rights Act by A 55-44 vote. Clearly, Congress has already spoken on the need to weigh the effects of Federal regulatory action on private property rights. This bill allows Federal acquisition of the highest value wetlands. Acquistion is not inevitable in all cases, since landowners would have the choice under this bill or retaining the land under type A classification, or transferring it to the Federal Government at fair market value. It is possible that incentives could be developed to encourage such practices.

Section 404 must not be ignored again this legislative session. We cannot let another opportunity to provide legislative guidance pass us by. The regulated community deserves no less than a vigorous debate on this important issue of wetlands conservation and management. This is only a starting point, the concepts are important, the particulars must be scrutinized and refined. I look forward to working with my colleagues to that end.

Let me conclude, Mr. President, by saying for the record that there is a national problem out there, and it really is the result of Congress never adopting any kind of a national regulatory program to take care of the activities that occur in the wetlands of this Nation.

Scientists have told us for many years now of the intricate and incredible value that wetlands have. But at the same time, the only legislation that we have on the books that deals with these very valuable lands located in all 50 States is a simple section of the Federal Water Pollution Control Act which was passed almost 20 years ago now that referred to what we do with dredge and fill activities and navigable waters. That one small section has been interpreted by regulators, by bureaucrats, and by various agencies of this Federal Government, as they have interpreted, in order to try and create a national wetlands management for planning regime. It was never intended to be that. Therefore, we find ourselves with enumerable problems today which have no solution because there, in fact, is no program or legislation to guide us.

So what we have are traditional decisions; some, I submit, are incorrect. We have regulatory rules and regulations and revisions and revisions and, yet, more revisions of those regulations, as the Federal bureaucracy tries to fit in a nice package something that was never intended to be a national wetlands management program.

So the problems are obvious. The reasons for those problems are clear.

I think we have an opportunity in this Congress to come forward with a national wetlands planning regime which will provide the guidance and the policy for the regulators. I think as a result of this effort we will have a program that is more balanced, that is more responsive to the needs of protecting these very valuable areas and at the same time recognizing the very legitimate private property rights that are now I think in many cases being trampled on because of the misapplication of a law that was never intended to do what some Federal agencies are trying to do today with those rules and regulations.

I look forward to hearings. I look forward to open debate. I point out again that the House has over 150 cosponsors of an indentical bill. We have a good number of cosponsors in the Senate. The time clearly to act in this national problem is now. This is the beginning of that action.

Mr. MURKOWSKI. Mr. President, I rise today to join with Senator BREAUX and my senior Senator from Alaska, Senator STEVENS, with regard to the introduction of the Comprensive Wetlands Conservation and Management Act of 1991.

Mr. President, Alaska does not have a wetlands loss problem. It should not be held, as it were, hostage to the wetlands problem of the lower 48. The situation currently in the United States, in

the opinion of this Senator, is growing out of control. In many cases, management of our Nation's wetlands has become a disaster. Current attempts to regulate wetlands through section 404 of the Clean Water Act have been a complete failure. The existing system of wetlands protection cost private landowners the use of their lands, cost taxpayers millions of dollars in litigation, and slows economic growth in many parts of our Nation. What started out as a well-intended effort to protect the Nation's wetlands has turned into a bureaucratic nightmare that fails to protect many of those most valuable wetland resources from destruction while turning land that has been farmed for decades into so-called pristine waters of our Nation.

Mr. President, the time has come for Congress to overhaul the current wetlands protection system.

The legislation being introduced today replaces the current section 404 of the Federal Water Pollution Control Act with a new section 404. This new system provides for a concise and structured program for the identification and delineation of wetlands based upon their functions and values for regulatory purposes. The bill also balances the need for the effective and complete protection of the Nation's important wetlands with the needs for essential community growth and the constitutional rights of landowners.

Mr. President, this bill acknowledges that a wetlands protection program must protect the rights of private property owners. A large percentage of the wetlands in this Nation are privately owned and if the United States is going to protect a valuable wetland for the best interest of this Nation, than the United States must compensate the owner of that wetland for the taking of their property.

The proposed bill would also authorize and encourage States to establish mitigation banking programs. Such program would allow a credit to be provided on an acre-for-acre or value-for-value basis for Federal land in protective status, providing such States have converted less than 10 percent of their original wetlands. This will help preserve the wetlands that are of critical significance to the long-term conservation of specific ecosystems.

Furthermore, the new section 404 program recognizes that all wetlands are not of equal value, and therefore should not be treated the same. This bill divides wetlands into three categories. The most valuable class, high value wetlands, would be more strictly regulated than under current law. The middle class, wetlands which provide significant functions, including enhancement or protection of water quality of flood control, are treated similarly to current law, and the third class, wetlands which provide little or no wetland functions, are only partially regulated. These three categories classify wetlands based on their functions and values, allowing greater protection for high value wetlands, without placing a moratorium on the economic growth of this Nation.

Mr. President, the bill being introduced today addresses many of the problems with the current wetlands protection program. However, Alaska does not need the same wetlands protection as the lower 48. I remind my colleagues that wetlands loss is not a problem in Alaska. While million of acres of wetlands have been lost in the lower 48, Alaska has not participated in this wetlands loss.

Alaska currently contains 170 million acres of wetlands, an area larger than the States of California and Oregon combined. Alaska contains over half of the wetlands in the United States; in fact, Alaska has 65 million acres more wetlands than all the wetlands in the lower 48 combined. Wetlands cover over 45 percent of the surface of Alsaka, and on the North Slope 99 percent of the surface is wetland. Alaska is completely saturated with wetlands, yet the total amount of wetlands lost in Alaska is less than 0.1 percent. Compare this with the lower 48 where over 50 percent of the original wetlands have been lost.

Mr. President, Alaska does not have a wetlands loss problem and should not be held hostage to the wetlands probem in the lower 48.

Responsible wetlands regulations should be based on the extent and proportional loss of the resource in a State. A "No net loss of wetlands" policy in Alaska, if interpreted inflexibly by the Federal regulatory and land managing agencies, could bring economic development in my State to a complete stop.

The Alaska delegation has been working very closely with the Department of the Army [Corps], the Environmental Protection Agency [EPA], and the President's domestic policy to find an acceptable solution to the unique situation in Alaska. Alaska is truly the "last frontier" and should be protected; however, the current wetlands protection system is suffocating economic growth in my young State.

This complex and frustrating issue must be addressed. It is time for the Congress to act. While this legislation is not a final solution, I believe it shows vision and direction to a system desperately in need of repair.

Mr. President, I would like to congratulate my colleagues on the work they have done to date and encourage the Senate to continue moving forward with legislation that will provide for the proper management of our Nation's wetlands while addressing the unique situation in Alaska.

Mr. STEVENS. Mr. President, I want to congratulate my colleague for working with the Senator from Louisiana, Mr. BREAUX, on this legislation that we have just introduced. I have come to the floor to reinforce what Senator MURKOWSKI has said because of a conversation I had yesterday with one of our colleagues.

I was telling another Member of the Senate about the problem of Juneau school district's application to proceed with the construction of a new school and the fact that had been held up because Federal agencies would not approve it under the wetlands policy. The Senator implied that I was exaggerating the situation to say that section 404 was being interpreted in a way to prevent a local school district from proceeding with construction. He said correctly that section 404 deals with the filling of land and not necessarily with construction. But in Alaska, it has been applied to practically halt all new construction.

We have had the case of the St. Vincent DePaul Society's application to proceed with four units for the homeless. That was held up for almost three-quarters of a year by Federal agencies who had not and would not approve it because they said it was going to lead to the loss of wetlands, notwithstanding the fact it was in practically the center of Juneau surrounded by development. We now have a similar situation with regard to the Juneau school district's application.

But all over the State, even in terms of military developments, in terms of the application to proceed with the development of the over-the-horizon radar in the northern part of Alaska up in the tundra, that was held up.

One of the Federal agency employees actually had the audacity to suggest that the Department of Defense go to Oregon and acquire 20,000 acres and retire those 20,000 acres, put them back into wetlands, in order to have the privilege of temporarily—I emphasize that—temporarily using 500 acres in the tundra for national defense installation under the stipulation that when the national defense was completed, the use had been completed, the tundra would be returned to its natural contour. It was not a permanent use at all.

But the off-site mitigation concept involved now, in terms of the review by Federal agencies of applications to proceed under section 404, is stifling the public land States.

I have come over to tell the Senate that this bill that Senator BREAUX and Senator MURKOWSKI have introduced, and I have joined with them, deserves attention and I hope it will get early hearings. I want to serve notice on the Senate that the whole subject of section 404 and its renewal, which must be completed during the term of this Congress, is going to be a difficult one if this Senate does not address the question of how far the no-net-loss policy for wetlands is going to stifle the pub-

lic lands States from their development.

Our State received a substantial land grant at the time we came into the Union because we were land poor. Our State has now acquired substantial land bases and we have withdrawn more lands for parks, for wildlife protection, for wilderness designation than any State in the Union. Yet, notwithstanding that, and the fact that we have only used one-tenth of 1 percent of our wetlands, we have been completely stifled, as I said, in terms of proceding to develop.

We actually had correspondence with some people who have been told that they cannot pave their driveways on their just plain old city lots without getting permission from a Federal agency.

Now this is ludicrous and it is time that it be adjusted and the Senate address this question.

Mr. SYMMS. Will the Senator yield to me?

Mr. STEVENS. Yes.

Mr. SYMMS. I applaud what the Senator is saying. We had a hearing on this subject in the environment and Public Works Committee yesterday. The point of view that the Senator from Alaska is projecting is badly needed in the Senate. This Senator stated the same basic position that the Senator did yesterday, and I join with him and Senator MURKOWSKI and Senator BREAUX and others in sponsoring this bill.

But we have a huge problem on our hands and basically, fundamentally, it is a private property issue in Alaska. Of course, it is not, but it is a blockage of development, it is land use planning by using section 404 and the wetlands to interfere with common sense progress.

I think that is all the Senator is asking for and that is all I am asking for. I thank him for his comments.

REVISION OF SECTION 404 OF THE CLEAN WATER ACT

Mr. CRAIG. Mr. President, I am very pleased that my colleague, Senator BREAUX, has taken the lead in sponsoring legislation badly needed to correct abuses which have arisen in the application of section 404 of the Clean Water Act.

The protection of critical wetlands is an important issue in the State of Louisiana, as it is in my home State of Idaho. I strongly favor protection of true wetlands which serve many purposes—habitat for varied forms of fish, wildlife, and plants; natural filters to preserve water quality; scenic and recreation resources appreciated by residents and visitors alike. High-quality wetlands add to our enjoyment of life in many ways, and Idaho is blessed by many fine examples.

However, I am deeply concerned that application of the current law not only does not protect the best of our wetlands, but that appropriations are being misspent in an attempt to regulate lands which are not wetlands and were never intended to fall under the purview of section 404. This expansion of definition, undertaken without benefit of formal rule-making, has caused many farmers, businessmen, and homeowners untold difficulty and expense to protect their rights in land which is not wetland. While the Federal agencies focus attention on these properties, high-quality wetlands remain unprotected.

My constituents have complained of numerous difficulties with section 404. A dispute arose when a permit was required for a long-established mine tailings pond suddenly declared to be a wetland. In another example, farm drainage ditches, dry for most of the year but wet in the winter, were deemed to be wetlands requiring a permit before repairs can be made. Homeowners have become ensnared from the simple act of improving the backyard. Not only is this attention by the Federal regulators misplaced, the permitting process can be interminable. One Idaho business has been waiting more than a year for a ruling on its permit request.

Private property rights are often ignored in this process. Landowners in increasing numbers are seeking legal redress when denied a permit for activities they wish to pursue. Two recent cases were decided in favor of private owners with damages of $3.6 million assessed against the Federal Government.

I find many reasons to lend my strong support to this bill. It sets a clear definition of high-value wetlands and focuses the attention of the agencies on these properties. It requires clear evidence of wet soils and wetlands vegetation. Private landowners are provided a reasonable process for compensation when their lands are classified as critical wetlands. In all cases, a speedy permitting process will be instituted.

Upon enactment of this bill, with its unity of purpose clearly aimed at protection of our outstanding wetlands nationwide, we can see our path clear to reach the President's goal of no net loss of wetlands.

Mr. NICKLES. Mr. President, today I join my colleague from Louisiana, Senator BREAUX, in the introduction of legislation to amending section 404 of the Clean Water Act to create a new, commonsense wetlands regulatory program. The Comprehensive Wetlands Conservation and Management Act is not an attempt to gut Federal wetlands protection programs. Like section 404, this bill prohibits the discharge of dredged or fill material into certain wetlands or the draining, channelization, or excavation of certain wetlands, without a permit from the Corps of Engineers.

Simply put, Federal wetlands protection programs are a bureaucratic, overly restrictive, mess. When the Clean Water Act was enacted in 1972, section 404 was created to regulate the deposit of fill material in waters of the United States. Over the years, bureaucrats and the courts have needlessly expanded this program's scope to the point that the corps now regulates anything meeting the distorted Federal definition of a wetland. The impact of this program's expansion has been felt in all areas of the country by farmers, foresters, realtors, State and local governments, and many others. The outcry from these individuals has been tremendous, and their message has been clear. Congress needs to reform wetlands programs.

I originally became involved in wetlands reform in the 101st Congress with the introduction of the Common Sense Agricultural Wetlands Act. My legislation was prompted by complaints from Oklahoma farmers and ranchers who became entangled in a bureaucratic nightmare in which they were forced to prove that they did not have wetlands on their property. Fortunately, the 1990 farm bill included some of the reforms I first proposed in the Common Sense Agricultural Wetlands Act of 1990. It has become apparent, however, that more reform is needed.

Mr. President, the Comprehensive Wetlands Conservation and Management Act goes straight to the heart of our wetlands problems by identifying and classifying wetlands by their intrinsic values. To do this, the bill establishes guidelines and time frames for the classification of wetlands into three types. These classifications may be appealed by landowners who disagree with the corps' findings.

TYPE "A" WETLANDS

Type "A" wetlands must consist of at least 10 contiguous acres that are of critical significance to the ecosystem they are a part of, and for which there is no overriding public interest in the use of, other than conservation. Type A wetlands are considered, for all practical intents, taken by the Government. Owners of type A wetlands have the option to seek compensation at fair market value and transfer title to the Government, or retain title and abide by the prohibitions established for type A wetlands. The landowner has 2 years to make this decision.

TYPE "B" WETLANDS

Type "B" wetlands must provide habitat for a significant population of avian, aquatic, or wetland dependent wildlife, or provide other significant wetlands functions such as the protection of water quality or natural flood control. Type B wetlands are regulated by the permitting process. Permits may be issued to conduct activities on type B wetlands if the ecosytem will not suffer a significant loss of wetlands functions. Rules are established to

allow mitigation to be used in the consideration of wetlands permits. The Corps of Engineers is required to rule on an application for a wetlands permit within 6 months.

TYPE "C" WETLANDS

Type "C" wetlands are wetlands that serve limited or de minimis wetlands functions, are prior converted cropland, or are within industrial complexes, or other intensely developed areas. Type C wetlands are released from regulation. Activities may be undertaken without a permit.

Additionally, Mr. President, the Comprehensive Wetlands Conservation and Management Act identifies certain other activities which do not require a permit including: Normal farming, forestry, and aquaculture practices; minor drainage, maintenance of dikes, dams, water control structures, levees, breakwaters, causeways, and transportation structures; and construction or maintenance of farm or stock ponds or irrigation ditches.

To address another critical area of wetlands reform, the Comprehensive Wetlands Conservation and Management Act directs the development of a new Federal wetlands definition. The bill directs that under the new definition, no lands shall be declared wetlands unless clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soils are found to be present. Wetlands hydrology shall not be found unless water is found at the surface for at least 21 consecutive days during the growing season, with the growing season defined as the last frost in spring to first frost in fall. Additionally, wetlands incidentally created due to unintentional or temporary impacts of development activities, shall also not be delineated as wetlands.

Finally, Mr. President, the Comprehensive Wetlands Conservation and Management Act recognizes the need to investigate fully the status of our Nation's wetlands resources. Thus, the bill directs the U.S. Fish and Wildlife Service to identify and classify all the wetlands in the United States within 10 years after passage of the bill. During this inventory, public hearings are to be held in each county, parish, or borough of a State before completion of the identification and classification project in that area. After completion of the identification and classification project in each county, parish, and borough of a State, the resulting information is to be distributed publicly and be recorded on local property records.

Mr. President, I believe we can no longer avoid this issue and allow the bureaucrats and the courts to stifle economic development and progress in the name of wetlands conservation. In my State, the section 404 program was responsible for delaying a huge State highway project because of two wetlands areas of less than 15 acres. Even when Oklahoma officials committed to mitigate the wetland loss at more than three-to-one, the corps continued to delay this project, costing Oklahoma taxpayers thousands of dollars per day in increased construction interest costs.

The time has come for Congress to fully address the issue of wetlands regulation and develop a workable regulatory program that protects real, valuable wetlands while recognizing the rights of private property owners. As the Senate Environment and Public Works Committee begins work on the reauthorization of the Clean Water Act, I hope this bill will serve as the model for section 404 reform.

Mr. WALLOP. Mr. President, I am proud to join my friend from Louisiana in introducing this bill to establish a comprehensive program for conserving and managing wetlands. I feel strongly that Congress needs to put balance back into a program that too often has shown Americans just how inflexible and misguided the Federal Government can be.

With regard to wetlands conservation, businesses large and small, private property owners and States have been forced to carry the burden of achieving a goal which has never been clarified nor evenly distributed. Private property is taken without just compensation and State's are being frustrated in their efforts to provide citizens such basic services as water allocation and road construction because of restrictive regulations which attempt to achieve no net loss of wetlands. I am not critical of the concept, however, I am deeply concerned at what is taking place under the guise of a goal which has not yet been properly defined.

In particular I am concerned about the application of the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" which increased the amount of land identified as jurisdictional wetlands without allowing the regulated public any opportunity for comment or review. In addition, a MOA signed in February 1990 by the Corps of Engineers and EPA established inflexible sequencing provisions whereby disturbance of wetlands was to be avoided first of all, then minimized and lastly, mitigated. Both of these items have operated in a very restrictive manner.

It is time for Congress to address the issue of wetlands preservation in a comprehensive manner. The bill we are introducing today does just that. Importantly, it also establishes the proper balance between conservation of wetlands and respect for private property rights, with recognition of the need for economic growth and the provision of essential services.

I commend this bill to my colleagues and look forward to working toward solutions to the very real problems created by the law as it currently stands.

Mr. JOHNSTON. Mr. President, I am pleased to join my colleague from Louisiana in introducing the Comprehensive Wetlands Conservation and Management Act of 1991, which proposes a number of needed changes in the Federal regulation of wetlands.

The current regulatory scheme has evolved in large part through administrative and judicial interpretation, and it is past time that the legislative branch debates and decides the fundamental issues and choices involved in wetlands policy. This legislation lays these issues out clearly, and proposes a number of interesting ideas for addressing them. It faces squarely the issue of private property rights and proposes a system for compensating landowners whose land is considered so valuable that virtually all productive use of it is constrained. It faces squarely the issue of balancing environmental and economic development needs and proposes a system of classifying wetlands so that the most valuable are protected while allowing marginally valuable areas to be developed. It faces squarely the need for deciding who is in charge of the program, and proposes that the Corps of Engineers be given full authority.

In addition, this legislation calls for advance mapping of all lands in the country so that everyone will know in advance what is wetlands and proposes a system for recording this information on property records. This may be one of the most important proposals contained in this bill, and will help resolve many of the controversies which have arisen when property owners have discovered after the fact that certain restrictions apply to their property. Now, even when diligent efforts have been made to determine what regulations apply to a certain tract, information is not fully available. Many in good faith have proceeded with work, invested thousands of dollars, only to find later—and usually after a disgruntled neighbor has turned them in—that a Federal permit was needed. In some cases, projects have been halted altogether, causing a storm of protest in many areas of the country. If the rules are known in advance, however, and notice is recorded locally of restrictions, then the root cause of this protest—the belief that there has been no notice and that principles of fundamental fairness have not been applied—will be abated.

In the end, mapping and notice may well be what is needed to save our wetlands. The current system simply is not accomplishing this goal. We in Louisiana know this all too well as we watch some 60 square miles of valuable coastal wetlands disappear each year. The current system does not concentrate Federal efforts on these areas, or for that matter distinguish between valuable ecological systems and individual tracts which may be in the mid-

dle of highly developed areas and thus of marginal if any importance to the ecosystem. Mapping and classifying areas will help regulators have the basic information they need to focus on valuable areas and preserve the truly important areas we all recognize need to be preserved and restored.

This bill also provides incentives for voluntary mitigation efforts, and a way for private landowners to become better stewards of their property. In addition, it expands the number of activities in these areas subject to regulation that are destructive to wetlands but are not covered under the current 404 program. It, in short, proposes a comprehensive scheme for regulating wetlands and the flexibility we must have to balance public interest needs and to reconcile equitably public policy goals with private property rights. Particularly in view of the fact that 75 percent of the Nation's wetlands are in private ownership, we must balance and reconcile these interests. Otherwise, support for any regulation may well deteriorate placing many valuable and critical areas in jeopardy.

I hope the issues this bill raises will be debated fully and seriously. It is clear to me that we must give thoughtful consideration to these issues and develop a comprehensive approach if we are to preserve wetlands for future generations, and I look forward to working closely with my colleagues to develop such an approach in this Congress.

By Mr. SANFORD (for himself and Mr. RIEGLE):

S. 1464. A bill to amend the Securities Exchange Act of 1934 to enhance investor disclosure requirements; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES INVESTOR DISCLOSURE ACT

• Mr. SANFORD. Mr. President, I rise today to introduce a bill, the Securities Investor Disclosure Act of 1991, which I believe will provide much-needed consumer protection to potential securities investors.

The need for such legislation came to my attention after I became aware of the plight of a group of my constituents from Chapel Hill, NC. These individuals lost money after investing funds through a registered broker-dealer and sought the protection afforded to them by the Securities Investor Protection Corporation [SIPC].

In their attempts to receive SIPC claims, they have faced tremendous obstacles due to a number of technical interpretations of securities law. The purpose of this bill is to improve disclosure requirements for securities broker-dealers to ensure future investors will not face the same difficulties that my constituents have met.

As you may know, SIPC was created under the Securities Investment Protection Act [SIPA] of 1970 to provide customers of SIPC recourse when SIPC member broker-dealers folded due to insolvency or fraudulent behavior.

Since then, numerous court cases have arisen regarding who is eligible to receive protection through SIPC and what it takes to be considered a customer within the meaning of the Securities Investor Protection Act. Many investors, as in the case of my constituents in North Carolina, have truly believed that their transactions were insured by SIPC, and that they were customers of a SIPC-insured broker-dealer, only to find out they were really customers of an affiliate of the broker-dealer or had not made payments to the legal name of the broker-dealer.

Such individuals were denied insurance payments when their broker-dealer failed because of SIPC's interpretation of the definition of a customer as stated in section 78111(2) of the Securities Investor Protection Act. This interpretation is very narrow, including only those persons who make their investment checks directly payable to the broker-dealer or deliver cash funds that are actually deposited in the broker-dealer's account. This interpretation does not include those who clearly entrusted funds to a broker-dealer for the purchase of securities and made their checks payable to the broker himself or an affiliated company of the broker-dealer.

This strict interpretation has created confusion in the past, particularly when SIPC member broker-dealers have a similar name and share the same offices and personnel with a financial affiliate, a practice which is common among many smaller broker-dealers. Adding to the confusion is the fact that when many customers walk in a broker's door they immediately see a gold SIPC sticker on the door announcing $100,000 insurance coverage yet do not realize that much of the business done in that office is not covered by SIPC.

Herein lies the dilemma facing SIPC customers. SIPC member broker-dealers are permitted to sell products through non-SIPC insured affiliates or to offer products which are not covered by SIPC from the same office in which they carry on their insured business as a broker-dealer. Unbeknownst to the investor, these products are not insured under SIPC and thus the investor is not considered to be a customer of SIPC for insurance purposes.

I am submitting this legislation in hopes of avoiding such confusion in the future and believe it is quite straightforward. It simply amends the Securities and Exchange Act of 1934 to require the SEC to set forth standards for disclosure requirements of SIPC coverage. The bill would force broker-dealers and those affiliated with broker-dealers to disclose their current SIPC membership status and the extent of consumer protection provided for certain transactions under SIPA as well as identify transactions not protected under SIPA. Thus, an investor would be made aware when he or she is not considered a customer of SIPC as defined in the Securities Investor Protection Act.

I believe this bill will remedy the present problems and protect potential investors against unnecessary and unwarranted losses. This legislation requires no greater costs and places no greater strains on the SIPC insurance fund. It is a simple disclosure statute, and I urge my colleagues to support it.•

• Mr. RIEGLE. Mr. President, I am pleased to cosponsor the Securities Investor Disclosure Act of 1991 with my distinguished colleague from North Carolina, Senator SANFORD. This bill will ensure some needed reforms to increase consumer awareness about the present securities investment and protection system. Recent events have demonstrated that individual investors may not have the information that they need to make an informed decision when buying securities about the coverage provided them should their broker go bankrupt.

In 1970, the Congress created the Securities Investment Protection Corporation [SIPC] to promote confidence in U.S. securities markets by protecting the customers of registered securities broker-dealers that are unable to meet financial obligations to their clients.

It is important to understand what SIPC is and what it does. First, SIPC is not an insurance system against declines in the market value of securities. If the price of securities fall, SIPC has no role. What SIPC does do is protect customers of broker-dealers by protecting customer assets—cash and securities—held by the broker for the customer. In other words, if a broker-dealer is holding either cash or securities of customers at the time it fails and the broker-dealer has insufficient assets to return all customer cash and securities, SIPC will reimburse customers for cash up to $100,000 and total losses up to $500,000. I emphasize again, however, that SIPC does not protect securities customers from market losses. Further, not all assets purchased through a broker-dealer are covered under SIPC. The problem we are encountering is that these facts are not always explained to securities customers.

SIPC has performed its function efficiently for the past two decades and the present system for customer protection after a broker fails works well. However, customers are not sufficiently aware of what SIPC does and does not do.

The bill Senator SANFORD and I are introducing today directs the SEC to establish regulations requiring disclo-

sures about SIPC at the start of a relationship between a securities customer and a broker-dealer. The disclosure will inform customers of whether or not the broker-dealer is a member of SIPC, and what sorts of products are and are not provided with SIPC coverage. Once they have this information customers can make informed decisions about future securities transactions. And then we can at least be assured that, no matter what the customer chooses to do, they are not operating under false or incomplete information.

Since the Securities and Exchange Act became law in 1934, the key to the success of this Nation's securities markets has largely been adherence to the concept of disclosure. Recent experience has demonstrated the continuing need to sharpen that focus. There is a wide gap between the complexity of the securities business and the sophisticated of the small individual investor. Unfortunately, there have been some unscrupulous securities brokers who have exploited this fact to their advantage. One recent case involved a broker setting up affiliate organizations that were not members of SIPC under the same roof and selling products that, to uninformed customers, appeared to be covered. The bill that I am cosponsoring today with Senator SANFORD will ensure that these and other customers continue to reap the benefit of the traditional basis for securities law: Consumer disclosure.●

By Mr. FOWLER:

S. 1465. A bill to amend the Egg Products Inspection Act to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect consumers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EGG PRODUCTS INSPECTION ACT AMENDMENTS

● Mr. FOWLER. Mr. President, I rise today to introduce the Egg Products Inspection Act Amendments of 1991.

This legislation will greatly strengthen and enhance the existing laws governing the handling and inspection of eggs destined for every breakfast table in America.

It is widely recognized that warm temperatures facilitate microbial growth on food products. By installing refrigeration equipment and carefully monitoring temperatures, egg handlers can greatly reduce the presence of potentially harmful bacteria. It is often exposure to these warm temperatures that leads to salmonellosis.

This legislation requires handlers to hold, at all times after packaging, every single shell egg destined to human consumption at an ambient temperature no greater than 45 degrees fahrenheit. The Secretary of Health and Human Services and the Secretary of Agriculture are both extended additional authority to enforce these provisions to ensure complete compliance by the industry.

Consumers have become increasingly concerned about the quality of the food that they eat. This legislation is a step in the right direction in addressing those concerns. I am particularly pleased that this proposal has been supported by the egg and poultry industry.

These new temperature provisions for egg handlers coupled with recent revisions by the Food and Drug Administration for eggs at the retail level will help provide consumers with safer and better quality eggs.●

By Mr. ROTH:

S. 1466. A bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

CONGRESSIONAL BUDGET OFFICE NEUTRALITY ACT

● Mr. ROTH. Mr. President, today I am introducing a bill to reform the Congressional Budget Office and make it nonpartisan. This legislation is identical to companion legislation offered in the House today for the same purpose. The purpose of the legislation is to insulate CBO from partisan pressure in order to improve its ability to perform its functions in a neutral and objective manner.

This legislation would also mandate full disclosure of CBO assumptions used to evaluate tax and spending measures and for other analytical work. In a democracy it is reasonable for Members of Congress and the public to know how the assumptions of congressional staff influence congressional decisionmaking. There is no reason to keep Congress and the public in the dark about CBO research products. For example, CBO failed to disclose a $375 billion error in CBO capital gains realizations even though this error had a bearing on highly controversial issues regarding family income, tax policy, and CBO scorekeeping.

My bill would establish a bipartisan oversight board with six Members from each House of Congress, evenly divided by party. This bipartisan board would authorize CBO research products and oversee their completion and release in a fair and unbiased fashion. The member board would also name an advisory council of outside experts to evaluate CBO research products for objectivity and quality.

Finally, my bill would require confirmation of the CBO director by both Houses of Congress. Given the size and importance of CBO to all Members of Congress, its Director should be confirmed by the Members of each House.

Mr. President, my bill would provide more sunlight in congressional decisionmaking, and move CBO in the direction of nonpartisanship. I would invite any interested Members to cosponsor this legislation.●

By Mr. HEFLIN:

S. 1467. A bill to designate the U.S. Courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr., United States Courthouse"; to the Committee on Environment and Public Works.

FRANK M. JOHNSON, JR. COURTHOUSE

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the distinguished U.S. Court of Appeals judge for the eleventh circuit, Frank M. Johnson, Jr., who recently announced his intention to assume senior status.

Judge Johnson was born in Winston County, AL, and attended public schools all of his life, graduating from the University of Alabama Law School in 1943. He married the lovely Ruth Jenkins in 1938, and 53 years later they remain devoted to each other. During World War II, Judge Johnson saw combat action in Normandy, France, and across into Germany where he was wounded twice on the field of battle and later was decorated for gallantry. He was discharged as a captain and returned to the general practice of law with the firm of Curtis, Maddox & Johnson in Jasper, AL, and in 1953 he was named the U.S. attorney for the Northern District of Alabama. In 1955, President Dwight D. Eisenhower appointed Frank Johnson to the U.S. District Court for the Middle District of Alabama where he served until 1979, at which time President Jimmy Carter nominated him to be a U.S. circuit judge for the fifth circuit. The fifth circuit subsequently became the eleventh circuit in 1981; Judge Johnson continues to serve as a U.S. Court of Appeals judge for the Eleventh Circuit and will until he reaches his 73d birthday this year.

Judge Johnson's career is one of entire devotion to the rule of law and justice. He has been very active, serving in a number of professional capacities within the judicial branch of the Federal Government. Judge Johnson's honors are almost too numerous to mention, but they include honorary doctorates of law from Notre Dame University, Princeton University, the University of Alabama, Boston University, Yale University, Tuskegee University, and Mercer University. Two biographies have been written about Judge Johnson: One entitled "Judge Frank M. Johnson, Jr.," by Robert F. Kennedy, Jr.; and "Judge Frank Johnson and Human Rights in Alabama," by Dr. Tinsley E. Yarbrough.

It is entirely fitting, in my judgment, to name the U.S. courthouse in Montgomery in honor of Frank M. Johnson, Jr., for numerous reasons. The genesis of the whole civil rights movement began in Montgomery, AL, and it was

during that early period of Judge Johnson's tenure on the district bench in Montgomery that cases came before him in his second floor courtroom in the U.S. Courthouse. During his 24-year tenure on the district bench, Judge Johnson rendered decisions in such cases as Gomillion versus Lightfoot, U.S. versus U.S. Klans, Reynolds versus Sims, Lee versus Macon County Board of Education, Wyatt versus Aderholt, and Craig versus Alabama State University. These cases are landmarks in areas of the law in desegregation, voting rights, reapportionment, prisoner and mental health rights.

Judge Johnson's courtroom has been a living symbol of decency and fairness to all who come before his bench. It is from this courthouse that the term "rule of law" came to have true meaning; it is from this courthouse that the term "equal protection of the law" became a reality; and it is from this courthouse that the phrase "equal justice under law" was dispensed despite threats to his personal life. On June 11, 1974, Princeton University, in awarding Judge Johnson an honorary doctor of laws degree, said:

> In the heat of the long battle for civil rights, equal employment, and freedom of speech, his courtroom has been a sanctuary of integrity, fairness, and decency, where constitutional principle has guided difficult decisions. Neither fear nor prejudice, ignorance nor ignoble opposition can undermine his stern devotion to equal protection for all citizens under the law of the land.

I am sending to the desk of the clerk of the Senate a bill to name the U.S. Courthouse in Montgomery, AL, in honor of this distinguished U.S. Court of Appeals judge for the eleventh circuit, Frank M. Johnson, Jr. I ask unanimous consent that the bill appear in the CONGRESSIONAL RECORD following my remarks.

The Frank M. Johnson, Jr. United States Courthouse will continue to serve as a landmark symbol of freedom and hope for all who are struggling for fairness and justice. I urge my colleagues to join me in passing this important legislation honoring this distinguished jurist.

By Mr. MOYNIHAN:

S. 1468. A bill to provide for the termination of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary; to the Committee on Finance.

TERMINATION OF CERTAIN TRADE PROVISIONS

• Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill freeing the now free nations of Hungary and Czechoslavakia from the Jackson-Vanik conditions still applied to them for the purposes of MFN tariff treatment.

On June 1951, at the outbreak of the Korean war, Congress directed President Truman to suspend most-favored-nation trade status for all Communist countries except Yugoslavia. Exports from countries that do not receive MFN must face Smoot-Hawley tariffs.

During the subsequent 20 years, there was considerable debate about renewing MFN treatment for some Communist nations. Poland's MFN status was restored in 1960. Cuba's was revoked in 1962. During negotiations by the Nixon administration in 1972 to restore MFN for the Soviet Union, it became known that the Soviet Union had begun charging people wishing to emigrate "educational fees" of as much as $20,000 or $30,000—in addition to exit visas that already cost $1,200. In response, Senator JACKSON and 73 cosponsors offered an amendment to prohibit MFN treatment for any nonmarket economy country which denies or imposes undue burdens on the right of its citizens to emigrate.

Thus was born the Jackson-Vanik freedom of emigration provision. Eventually included as an amendment to the Trade Act of 1974, Jackson-Vanik has come to embody the connection made between U.S. trade policy and U.S. human rights policy. That is the issue that we now confront with China.

The bill I introduce today recognizes the profound nature of the change acheived by Hungary and Czechoslovakia. Both nations have undergone political and economic transformation. From totalitarian Communist dictatorships to free political systems. Though yet fragile, both nations have embraced free market principals, renouncing the centralized economies of a previous era. And both nations have accorded their citizens the right not only to emigrate, but even to travel freely, unimpeded by that greatest of symbols of the cold war, the Berlin Wall.

The bill would allow the President to remove the application of the Jackson-Vanik provision to Czechoslavakia, or the Czech and Slovak Republic as it is now called, and Hungary, thus extending to them without condition MFN treatment.

I urge my colleagues to join me in support of this most worthy initiative, and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS AND PREPARATORY PRESIDENTIAL ACTION.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that the Czech and Slovak Federal Republic and the Republic of Hungary both have—

(1) dedicated themselves to respect for fundamental human rights;

(2) accorded to their citizens the right to emigrate and to travel freely;

(3) reversed over 40 years of communist dictatorship and embraced the establishment of political pluralism, free and fair elections, and multi-party political systems;

(4) introduced far-reaching economic reforms based on market-oriented principles and have decentralized economic decision making; and

(5) demonstrated a strong desire to build friendly relationships with the United States.

(b) PREPARATORY PRESIDENTIAL ACTION.—The Congress notes that the President in anticipation of the enactment of section 2, has directed the United States Trade Representative to negotiate with the Czech and Slovak Federal Republic and the Republic of Hungary, respectively, in order to—

(1) preserve the commitments of that country under the bilateral commercial agreement in effect between that country and the United States that are consistent with the General Agreement on Tariffs and Trade; and

(2) obtain other appropriate commitments.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to the Czech and Slovak Federal Republic or to the Republic of Hungary, or to both; and

(2) after making a determination under paragraph (1) with respect to a country, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of a country, title IV of the Trade Act of 1974 shall cease to apply to that country.•

By Mr. GORTON (for himself and Mr. WALLOP):

S. 1469. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance.

CHINESE DEMOCRACY AND HUMAN RIGHTS ACT

Mr. GORTON. Mr. President, in the past 3 years, the world has witnessed extraordinary upheaval as the people of nation after nation rose up to throw off the deadening shackles of communism, embracing democracy in its stead. For decades, our foreign policy consciously was designed to achieve precisely this objective. It has been deeply gratifying to have played a role in these wondrous and dramatic transformations.

With these triumphs comes a new era; our single overarching goal of discrediting communism has been largely reached. Our task now is infinitely more difficult. In defining policies to support the continued growth of democracy, and to further its spread to other nations, each country must be considered individually. What will work in Poland may not work in the Soviet Union. What is effective in Nicaragua has no relevance to Hungary.

But perhaps nowhere is the challenge more difficult than in the People's Republic of China. I have spoken before of the poignancy of what remains to be

done there. I have spoken of unarmed protesters and tanks, of youth and the "Gang of Elders," of defiance crushed by tyranny. Our task in China is to allow the dormant seeds of democracy to survive the harsh winter of repression and to await the day when they may sprout once again.

To deal with those who direct that repression is repugnant to all who embrace liberty, Mr. President. But in this instance, they represent the sole means of ensuring that spring finally will arrive for the dreamers of democracy in China. If we proceed with deliberation and considered caution, the snows of winter may give way to a delayed, but not defeated, spring.

The Senate soon will undertake to reexamine this nation's relationship with the People's Republic of China. The very foundation upon which that relationship rests was severely damaged by the carnage which occurred in and around Tiananmen Square on June 3 and 4, 1989. Friendship has been replaced by mistrust, hope replaced by apprehension, protest silenced by repression.

Mr. President, I introduce today on behalf of myself and Senator WALLOP, the Chinese Democracy and Human Rights Act of 1991. This bill addresses some of the thorniest and most emotional issues facing this Congress, due in part to the President's deep personal interest in maintaining good relations with China where he once served as envoy. Whether and under what conditions to extend most-favored-nation [MFN] trade status to China are issues with no easy solutions.

I applaud Senator BAUCUS for raising in a recent letter to the President a number of extremely valid concerns confronting the United States and China. The Senator from Montana also suggested administrative actions that this Nation could take, including opposing multilateral loans to China, increasing various negotiation efforts and supporting Taiwan's admission to the GATT. I could not be in more full agreement.

I encourage the administration to address each of those concerns directly and completely. MFN status should not be immediately terminated, and I will resist attempts to do so, whether they be overt or disguised. Revoking MFN would do little except to punish China for its past misdeeds, and cause significant hardships to American businesses and farmers, Hong Kong and the most progressive sectors of China. These are not among the objectives of this Senator.

Where the Senator from Montana and I differ, however, is whether or not it is appropriate to use MFN as both a carrot and a stick. I submit that it is.

In the 2 years since the massacre in and around Tiananmen Square, China has taken few positive steps. And those taken were blatant attempts to influence crucial decisions pending in the United States. Last year, for instance, 211 wrongfully detained political prisoners were released shortly before the President announced his decision to extend China's MFN status for another year. There was a similar release of prisoners and the ending of formal martial law in Beijing at precisely the time when Congress was debating legislation regarding the Chinese students.

Many of the outwardly positive steps taken by China were followed by the imposition of additional restrictive actions. Martial law was replaced by onerous legislation effectively outlawing many of the fundamental freedoms supposedly guaranteed by the Chinese Constitution. The Government detained groups of dissidents as others were being released. As the second anniversary of the June 4 massacre approached, Chinese and foreign journalists found themselves subject to increasing harrassment as they attempted to report the truth.

This Senator does not believe that Congress should stand idly by and do nothing. Through our inaction, we implicitly demonstrate our willingness to overlook even the most heinous acts of a government that is willing to turn its guns on peaceful protesters. Were that an isolated incident, I might be able to attribute it to a gross misjudgment. However, the systematic and calculated series of events in China obviously designed to quell dissent in every quarter has convinced me otherwise.

I have solicited and considered the diverse views of businesses, groups and individual constituents from the State of Washington, as well as those of a number of national organizations and colleagues in both Chambers of Congress. I even sought to discuss this matter with officials from the People's Republic of China, but failed to receive any response.

After long and deliberate thought, I have drafted a bill that I and the bill's cosponsors believe represents a balanced approach between the two extremes. It would not restrict unconditional extension of MFN trade status for China for the current year. It would encourage China, however, to make demonstrable progress in a number of areas by providing additional conditions that must be met if China's MFN status is to be extended in 1992. These conditions are firm, yet reasonable to China to meet within this time frame despite its pronounced intransigence during the past 2 years.

This bill requires that China account for, and release, citizens who were imprisoned because of their prodemocracy activities. It also requires China to live up to its promises to not export to the United States goods made with convict labor, and to adhere to the joint declaration on Hong Kong entered into with the United Kingdom. Finally, China must not transfer ballistic missile weaponry to either Syria, Iran or Pakistan.

The bill also requires China to make significant progress on human rights, convict labor, trade, intellectual property rights protection, and military and nuclear weapons control. China's track record on those matters is far from exemplary, and sudden or dramatic progress is unlikely absent a significant shift in China's aging leadership. By using MFN both as a carrot and a stick, this Senator believes that China under its current leadership may be prodded in the right direction.

China has threatened, consistently and often, that relations will be damaged if MFN is withdrawn or even conditioned. The administration warns that passage of any legislation would be an intolerable slap in the face of an intensely proud country such as China, and would drive it away to sulk.

To be perfectly honest, I have little doubt that China would carry out its promises and react to whatever this body does that is inconsistent with China's demands. After all, China has promised to do so, and will lose face if it did not. The severity and duration of China's reaction would depend solely on what is in its best interests. It is to China's political advantage to play the offended lover, confident that its suitor will come groveling back to pitch woo once again.

In the view of this Senator, Congress and this Nation should not continue to kow-tow to the threats of aging tyrants who soon will pass from the scene leaving nothing but their legacy. Our bilateral relationship is extremely valuable to China. Earlier this year, China dispatched a buying mission to this country to spend millions of dollars for products that it may not need at this time. This week, China contracted to pay an American public relations firm as much as $1 million over the next 6 months to maintain ties with this country.

China's future does not lie in communism and isolationism, but rather in democratic reform and improved ties with the West. The seeds of democracy have been sowed throughout China, where some have taken root and others lay dormant. Congress should act to hasten the day when democracy will begin to blossom as it has in Eastern Europe and even the Soviet Union. I urge my colleagues to pass this vital legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

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

S. 1469

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 "Chinese Democracy and Human Rights Act of 1991".

SEC. 2. REQUIREMENTS FOR GRANTING MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may not recommend the extension of a waiver in 1992 under subsection section 402(d) of the Trade Act of 1974 for the People's Republic of China, unless the President reports in the document required to be submitted by section 402(c) of such Act the following findings:

(1) The People's Republic of China has, with respect to the violent repression of dissent in and around Tiananmen Square on June 3 and 4, 1989—

(A) accounted for citizens who were detained, accused, or sentenced as a result of nonviolent expression of their political beliefs; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing.

(2) The People's Republic of China has made significant progress in—

(A) preventing gross violations of internationally recognized human rights, particularly in Tibet;

(B) ending religious persecution, particularly in Tibet, and releasing leaders and members of all religions groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(C) removing restrictions, particularly in Tibet, on freedom of the press and on broadcasts by the Voice of America, and ceasing acts of intimidation and harassment of Chinese and foreign journalists;

(D) terminating surveillance and acts of intimidation and harassment of Chinese citizens living in China because of their prodemocracy activities, including the return and renewal of passports confiscated by authorities;

(E) terminating surveillance and acts of intimidation and harassment of Chinese citizens living outside of China, particularly those in the United States, because of their prodemocracy activities, including the return and renewal of passports confiscated by authorities;

(F) ensuring access of international human rights monitoring groups to prisoners, trials, and places of detention;

(G) ensuring freedom from torture and from inhumane prison conditions;

(H) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989;

(I) removing obstacles to study, travel or emigrate abroad for students and other citizens;

(J) permitting international humanitarian and intergovernmental organizations to inspect labor camps, prisons and other facilities to assess medical care, food and working conditions, and to determine whether political detainees are producing items for export;

(K) lowering tariff and nontariff administrative controls that restrict foreign firms' access to the domestic market of the People's Republic of China;

(L) providing adequate protection of United States intellectual property rights, in particular, computer software; and

(M) ceasing proliferation of ballistic missiles and exportation of nuclear weapons technology.

(3) The People's Republic of China is adhering to the Joint Declaration on Hong Kong that was entered into with the United Kingdom.

(4) The People's Republic of China is not exporting to the United States goods which are, in whole or in significant part, the product of forced labor.

(5) The People's Republic of China is not transferring to Syria or Iran ballistic missiles or misssile launchers for the weapon system known as the M-9 or the M-11, and is not transferring to Pakistan ballistic missiles or missile launchers for the weapon system known as the M-9 or ballistic missiles for the weapon system known as the M-11.

(b) DEFINITIONS.—For the purposes of subsection (a)—

(1) The term "acts of intimidation and harassment" means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) The term "gross violations of internationally recognized human rights" includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(4) The term "significant progress" means the implementation and faithful execution of measures that will henceforth lead substantially to the achievement of the objectives identified in subparagraphs (A) through (M) of subsection (a)(2).

(5) 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.

SEC. 3. REPORT BY THE PRESIDENT.

In addition to the findings required by section 2, if the President recommends in 1992 that the waiver authority referred to in section 101 be extended to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, a report on the extent to which the Government of the People's Republic of China has made between June 1991 and June 1992 in meeting the requirements of section 2(a).

SEC. 4. CULTURAL AND EDUCATIONAL EXCHANGE PROGRAMS.

(a) FINDINGS.—Congress finds that the interests of both the United States and the People's Republic of China would best be served by the free flow of ideas and information between citizens of our two nations.

(b) SENSE OF THE CONGRESS.—It is that sense of the Congress that the continuation and expansion of cultural and educational exchange programs linking our two nations should be encouraged, particularly in the fields of governance, law, and social sciences.

By Mr. HATCH:

S. 1470. A bill to alleviate burdens imposed upon educational agencies and institutions by the Family Educational Rights and Privacy Act of 1974 with respect to the maintenance of records by campus law enforcement units; to the Committee on Labor and Human Resources.

MAINTENANCE OF CERTAIN EDUCATIONAL RECORDS

Mr. HATCH. Mr. President, today I am introducing a bill on behalf of the Bush administration that amends the Buckley amendment. This bill would exempt from the definition of educational records any record maintained by a law enforcement unit that was created by that unit for a law enforcement purpose. The bill would neither require nor prohibit the release of such records, but would allow the choice to be made in light of local law and policy.

This amendment will result in better protection for our students by clearly outlining which records are educational records and should be subject to the Buckley amendment protections, and which records should be available to the public so that appropriate campus crime statistics can be maintained. I urge your support of this bill.

By Mr. ADAMS (for himself, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, and Mr. DECONCINI):

S. 1471. A bill to amend the Older Americans Act of 1965 to establish an Elder Rights Program, and for other purposes; to the Committee on Labor and Human Resources.

VULNERABLE ELDERS' RIGHTS PROTECTION AMENDMENTS

Mr. ADAMS. Mr. President, I rise with great pleasure today to introduce the Vulnerable Elders' Rights Protection Amendments of 1991. This legislation will establish a new title VII in the Older Americans Act [OAA] that will focus and strengthen activities that protect and defend those older citizens whose rights and well-being are at serious risk.

As chairman of the Labor and Human Resources Committee Subcommittee on Aging, it is my responsibility to reauthorize the OAA this year. I intend to include this legislation in my OAA reauthorization amendments that will be marked up next week in the Labor Committee. The new title created by the Vulnerable Elders' Rights Protection Amendments is a very important part of this reauthorization.

I am honored to be joined in introducing this bill by my good friends and esteemed colleagues, Senators KENNEDY, DODD, DECONCINI, and HARKIN. I am also pleased to say that a companion measure is being introduced in the House of Representatives ROYBAL, DOWNEY, OAKAR, and WYDEN. Each of these Senators and Representatives has demonstrated over many years their deep commitment to improving and protecting the rights of the Nation's elderly.

Over the past 6 months I have conducted six hearings concerning the reauthorization of the OAA and have heard from many organizations and individuals about the importance of the

act and improvements that should be made in it. One of the most consistent themes that has been raised during this process is the need to emphasize and strengthen those parts of the OAA that are directed at the most vulnerable among our elderly citizens.

In fact, at my first OAA hearing in January, I heard poignant and compelling testimony about the importance of key OAA programs that assist seniors in asserting and maintaining their rights. These include the Long-Term Care Ombudsman Program that investigates complaints of nursing home and board and care facility residents, legal assistance offices to address the legal problems of seniors, and the newly funded elder abuse prevention efforts.

One witness at that hearing, Mrs. Betsy Follensbee, told me of the help that a Vermont ombudsman and the Vermont Senior Citizens Law Center gave in dealing with the serious problems of her brother, a nursing home resident. After they resolved the problems she said "My brother's care since that time has been constantly watched and helped by the long-term care ombudsman."

At that same hearing, the remarkable Dr. Arthur Flemming, former Chairman of the U.S. Civil Rights Commission and U.S. Commissioner on Aging, said:

> A strong advocacy program is a must if the rhetoric of the "Declaration of Objectives for Older Americans" as set forth in title I of the Older Americans Act and the rhetoric of the titles designed to carry out the declaration is to be translated into reality for a maximum number of the older persons of our nation.

Dr. Flemming concluded by saying:

> I hope that this committee will start us down the road that will bring together the pieces of our present advocacy program into a new section, and will then strengthen the various components of the program.

Mr. President, we have gone down that road over the past 6 months and I am proud to say that my legislation will do what Dr. Flemming advocated—it brings together and strengthens the pieces in the OAA.

This legislation is timely and appropriate to the fiscal circumstances we find ourselves in. We are not in a position to create new programs requiring substantial funds. Nor is it appropriate to heap more demands upon the already strained resources of the Older Americans Act and other programs essential to the health, safety, and well-being of seniors.

What we can do, however, is protect the existing rights and benefits they need and are now entitled to. And, we can strengthen those programs intended to advocate for vulnerable elders. This is necessary whether it pertains to the rights of those living in nursing homes, those who are victims of abuse or exploitation, those who are denied benefits they rightfully are entitled to, or those who are sold insurance policies they do not need or cannot afford.

Last month, Families USA issued an important report showing that millions of low-income elderly and disabled individuals are not having their Medicare out-of-pocket costs—premiums, deductibles, and copayments—paid as Congress intended in establishing the Qualified Medicare Beneficiary [QMB] Program. Instead, they are paying out of their own pockets amounts that can be more than one-sixth of the annual income of an older person now living in poverty. Moreover, it is estimated that less than half of older individuals eligible for food stamps or Medicaid are covered by these programs. We are failing these needy and vulnerable citizens.

We need to do a much better job of turning our Government's promises into realities. My legislation will help do that in a number of ways. Mr. President, I will take just a few moments to briefly describe the legislation.

Under my bill, each State's OAA funded aging agency will establish a plan—an elder rights plan—to describe how they will protect and improve the rights of older persons in their State, and specifically describe how they will carry out the programs authorized under the new title.

The Long-Term Care Ombudsman Program would be moved from title III of the act to the new title and would be strengthened at the Federal, State, and local levels. This would include a National Ombudsman Center.

The act's elder abuse, neglect, and exploitation prevention provisions would also be placed in the new title and strengthened. States would be given much more discretion in the administration of this program and a National Ombudsman Resource Center would be established.

In addition to establishing an elder rights plan, State's would be authorized to provide for periodic assessments of the status of elder rights in their States, including the unmet need for assistance in resolving legal-related problems of older persons. States would also do more to promote the development of alternative methods for providing legal assistance and resolving seniors' problems.

The program authorized in 1987 to conduct outreach to identify seniors who may be eligible for, but who are not receiving, benefits under certain public benefit programs, such as supplemental security income [SSI], would be shifted to the new title in a new Outreach, Counseling, and Assistance Program. Under this expanded program, States would be authorized to provide counseling and assistance to seniors to help them to resolve problems in public benefit and private insurance programs, including Medigap and life insurance—areas in which far too many seniors are victimized.

Finally, two demonstration programs would be authorized: one to demonstrate cooperative efforts between State ombudsman programs, legal assistance agencies, and protection and advocacy systems would be reauthorized; and a new demonstration would be authorized for ombudsman services to assist tenants of publically assisted housing in solving their problems.

Mr. President, for the most part, this legislation consolidates and improves upon existing programs in the act. The new title provides a consistent and coherent structure for those services directed at protecting the rights of, and advocating for, vulnerable seniors. I urge my colleagues to join me in supporting this legislation now and when it is incorporated into our Older Americans Act reauthorization amendments.

I ask unanimous consent that a copy 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. 1471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Vulnerable Elders' Rights Protection Amendments of 1991".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. References.

TITLE I—ELDER RIGHTS SERVICES

Subtitle A—Administration Programs

Sec. 101. Establishment of Office on Long-Term Care Ombudsman Programs.
Sec. 102. Establishment of National Ombudsman Resource Center.
Sec. 103. Establishment of National Center on Elder Abuse.
Sec. 104. Reports by Commissioner.

Subtitle B—State and Community Programs

Sec. 111. Existing State and community programs.
Sec. 112. Vulnerable elder rights protection activities.
Sec. 113. Ombudsman programs.
Sec. 114. Programs for prevention of abuse, neglect, and exploitation.
Sec. 115. State elder rights and legal assistance development programs.
Sec. 116. Outreach, counseling, and assistance programs.
Sec. 117. Technical and conforming amendments.

Subtitle C—Demonstration Programs

Sec. 121. Long-Term Care Ombudsman Demonstration Projects.
Sec. 122. Housing ombudsman demonstration program.

TITLE II—DEFINITIONS

Sec. 201. Definitions.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Effective dates; application of amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a need to consolidate and expand State responsibility for the develop-

ment, coordination, and management of statewide programs and services directed toward ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights; and

(2) recent program reports and current research and demonstration findings indicate that—

(A) the incidence of elder abuse in domestic settings is estimated at approximately 1,500,000 cases per year;

(B) only one out of eight cases of elder abuse comes to the attention of State elder abuse reporting systems;

(C) half of the complaints received by the State long-term care ombudsman program relate to abuse of residents of long-term care facilities;

(D) approximately 2,000,000 older individuals reside in an estimated 90,000 long-term care facilities;

(E) older individuals residing in long-term care facilities are among the most frail and most vulnerable elderly persons in the United States;

(F) the advocacy services of the State long-term care ombudsman program, in conjunction with the services of legal assistance providers, are essential to protecting and enhancing the rights of residents of long-term care facilities;

(G) more than persons in any other age group, older individuals rely on public benefit programs and services to meet income, housing, and health and supportive services needs;

(H) benefits and protections for older individuals have expanded under Federal laws such as—

(i) the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

(ii) the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 682);

(iii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

(v) sections 1819 and 1919 of the Social Security Act, regarding nursing home reform (42 U.S.C. 1395i-3 and 1396r);

(vi) section 1924 of the Social Security Act, regarding spousal impoverishment (42 U.S.C. 1395r-5);

(vii) the Cranston-Gonzales National Affordable Housing Act of 1990 (Public Law 101-625; 104 Stat. 4079); and

(viii) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(I) a wide range of State legislative action has occurred in the area of elder rights, including legislative action regarding guardianship reform, insurance regulation, consumer protection, and the development of procedures for surrogate decisionmaking and advanced directives;

(J) the Federal laws described in subparagraph (H) and the State laws resulting from the legislative action described in subparagraph (I) are complex and constitute a difficult challenge for older individuals who wish to take advantage of the benefits the laws provide;

(K) the appropriate utilization of public benefit programs requires consumer knowledge of entitlements and skill in understanding complex Federal, State, and local laws and regulations;

(L) there is growing evidence of the need to provide outreach, counseling, and assistance to older individuals on—

(i) the public benefits to which they are entitled, including benefits under—

(I) the supplemental security income, medicare, and medicaid programs established under the Social Security Act (42 U.S.C. 1381 et seq., 1395 et seq., and 1396 et seq.);

(II) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); and

(III) the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.); and

(ii) the options available to the persons for public and private insurance, including health, long-term care, and life insurance, and retirement benefits;

(M) it is estimated that only half of older individuals eligible for benefits under the supplemental security income program are currently enrolled;

(N) it is estimated that only half of older individuals eligible for food stamps receive assistance; and

(O) it is estimated that less than half of older individuals eligible for benefits under the medicaid program are currently enrolled.

(b) PURPOSES.—The purposes of this Act are to—

(1) assist States in securing and maintaining for older individuals dignity, security, privacy, the exercise of individual initiative, access to resources and benefits to which the individuals are entitled by law, and protection from abuse, neglect, and exploitation;

(2) require States to undertake a comprehensive approach in developing and maintaining elder rights programs;

(3) authorize States to undertake State level activities in support of programs that—

(A) are administered by State agencies, area agencies on aging, other public agencies, nonprofit agencies and organizations, and volunteers; and

(B) focus on securing and protecting the rights and benefits of older individuals;

(4) require States to administer elder rights programs and services authorized by this Act in a comprehensive and coordinated manner;

(5) require States to give priority to protecting the rights of, and securing and maintaining benefits and services for, older individuals with the greatest economic or social need;

(6) authorize States—

(A) to plan and develop programs and systems of individual representation, investigation, advocacy, protection, counseling, and assistance, for older individuals; and

(B) to coordinate and administer State and local activities for the protection and representation of older individuals, including—

(i) activities for prevention of, and protection against, abuse, neglect, and exploitation;

(ii) legal assistance;

(iii) long-term care services;

(iv) ombudsman activities;

(v) benefits counseling and assistance; and

(vi) other such outreach activities;

(7) require the State agency to submit annually to the Commissioner on Aging and to other appropriate State agencies a report of elder rights activities and issues, including an analysis of data regarding elder rights based on—

(A) reports of abuse, neglect, or exploitation;

(B) complaints regarding long-term care;

(C) reports of consumer fraud and abuse;

(D) reports of requests for and the provision of emergency protective services;

(E) reports of legal assistance and advocacy required to provide protection; and

(F) reports regarding the failure of older individuals to secure benefits for which the persons are eligible; and

(8) require the State agency to provide public information, education and training, and technical assistance to older individuals, family members of older individuals, and service providers, regarding—

(A) the rights of older individuals;

(B) the means available to secure and protect the rights; and

(C) ways of assisting older individuals in making informed choices.

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

TITLE I—ELDER RIGHTS SERVICES

Subtitle A—Administration Programs

SEC. 101. ESTABLISHMENT OF OFFICE ON LONG-TERM CARE OMBUDSMAN PROGRAMS.

Section 201 (42 U.S.C. 3011) is amended by adding at the end the following new subsection:

"(d)(1) As used in this subsection:

"(A) The term 'Associate Commissioner' means the Associate Commissioner for Ombudsman Services.

"(B) The term 'eligible individual' means an individual, if—

"(i) the individual does not have, and in the preceding 2-year period did not have, a conflict of interest; and

"(ii) no member of the immediate family of the individual has, or in the preceding 2-year period had, a conflict of interest.

"(C) The term 'Office' means the Office on Long-Term Care Ombudsman Programs.

"(2) There is established in the Administration an Office on Long-Term Care Ombudsman Programs.

"(3)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Services appointed by the Commissioner from among eligible individuals who have—

"(i) training in, or knowledge regarding—

"(I) gerontology, long-term care, health care, or social service programs that are relevant to meeting the needs of residents of long-term care facilities;

"(II) legal systems, the delivery of legal assistance, community services, and organizations that are involved in activities relating to long-term care;

"(III) program management skills and complaint and dispute resolution techniques, including skills and techniques relating to investigation, negotiation, and mediation; and

"(IV) long-term care advocacy; and

"(ii) technical or professional level experience with residents of long-term care facilities.

"(B) No person shall be appointed Associate Commissioner if—

"(i) the person has been employed within the previous 2 years by—

"(I) a long-term care facility;

"(II) a corporation that owned or operated a long-term care facility; or

"(III) an association of long-term care facilities; or

"(ii) the person or any member of the immediate family of the person has a conflict of interest.

"(4) The Associate Commissioner shall—

"(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments and agencies of the Federal Government, regarding all Federal policies affecting the individuals;

"(B) review and make recommendations to the Commissioner regarding—

"(i) the approval of the provisions in State plans submitted under section 307(a) or section 705 that relate to State long-term care ombudsman programs; and

"(ii) the adequacy of State budgets and policies relating to the programs;

"(C) after consultation with State Long-Term Care Ombudsmen and the State agency, make recommendations to the Commissioner regarding—

"(i) policies designed to assist State Long-Term Care Ombudsmen; and

"(ii) methods to periodically monitor and evaluate the operation of State long-term care ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities, and of other similar adult care homes;

"(D) keep the Commissioner and the Secretary fully and currently informed about—

"(i) problems relating to State long-term care ombudsmen programs; and

"(ii) the necessity for, and the progress toward, solving the problems;

"(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, administrative regulations, and other policies, regarding the operation of State long-term care ombudsman programs;

"(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State long-term care ombudsman programs;

"(G) supervise the activities carried out under the authority of the Administration that relate to State long-term care ombudsman programs; and

"(H) make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center established under section 202(a)(21).".

SEC. 102. ESTABLISHMENT OF NATIONAL OMBUDSMAN RESOURCE CENTER.

Section 202(a) (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (19) by striking "and" at the end;

(2) in paragraph (20) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(21)(A) establish a National Ombudsman Resource Center and, by grant or contract, operate such center to assist State Long-Term Care Ombudsmen and the representatives of the Ombudsmen in carrying out State long-term care ombudsman programs effectively under section 307(a)(12) and section 712 by—

"(i) providing technical assistance, training, and other means of assistance;

"(ii) analyzing laws, regulations, policies, and actions with respect to which comments made under section 712(a)(3)(G)(i) are submitted to the center; and

"(iii) providing assistance in recruiting and retaining volunteers for State long-term care ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs; and

"(B) make available to the Center not less than the amount of resources made available to the Center for fiscal year 1991.".

SEC. 103. ESTABLISHMENT OF NATIONAL CENTER ON ELDER ABUSE.

Section 202 (42 U.S.C. 3012) is amended by adding at the end the following new subsection:

"(d)(1) The Commissioner shall establish and operate a National Center on Elder Abuse.

"(2) In operating the Center, the Commissioner shall—

"(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

"(B) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

"(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(3)(A) The Commissioner may carry out paragraph (2) either directly or through a grant or contract.

"(B) The Commissioner shall issue criteria for programs receiving funding through a grant or contract under this subsection.

"(C) The Commissioner shall establish research priorities for making grants or contracts to carry out paragraph (2)(E) and, not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

"(4) The Commissioner shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Center for fiscal year 1991.".

SEC. 104. REPORTS BY COMMISSIONER.

(a) DEADLINE.—Section 207(b)(1) (42 U.S.C. 3018(b)(1)) is amended by striking "January 15" and inserting "March 1".

(b) STUDY OF EFFECTIVENESS OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.—Not later than July 1, 1993, the Commissioner on Aging shall, in consultation with State agencies and State Long-Term Care Ombudsmen, directly, or by grant or contract, conduct a study, and submit a report to the committees specified in section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)), analyzing separately with respect to each State—

(1) the availability of services, and the unmet need for services, under the State long-term care ombudsman programs in effect under section 307(a)(12) (42 U.S.C. 3028(a)(12)) and section 712 of such Act (as added by section 113 of this Act), to residents of long-term care facilities;

(2) the effectiveness of the program in providing the services to the residents, including residents of board and care facilities, and of other similar adult care homes;

(3) the adequacy of Federal and other resources available to carry out the program on a statewide basis in each State;

(4) compliance and barriers to such compliance of the States in carrying out the programs;

(5) any actual and potential conflicts of interest in the administration and operation of the programs; and

(6) the need for and feasibility of providing ombudsman services to older individuals utilizing noninstitutional long-term care and other health care services, by analyzing and assessing current State agency practices in programs in which the Ombudsmen provide services to individuals in settings in addition to long-term care facilities, taking into account variations in—

(A) settings where services are provided;

(B) the types of clients served; and

(C) the types of complaints and problems handled.

Subtitle B—State and Community Programs

SEC. 111. EXISTING STATE AND COMMUNITY PROGRAMS.

(a) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (42 U.S.C. 3023(a)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) ALLOTMENTS.—Section 304(d)(1)(B) (42 U.S.C. 3024(d)(1)(B)) is amended to read as follows:

"(B) such amount as the State agency determines to be adequate for conducting an effective long-term care ombudsman program under section 307(a)(12) shall be available for paying up to 85 percent of the cost of conducting the program under this title;".

(3) AREA PLANS.—Section 306(a)(10) (42 U.S.C. 3026(a)(10) is amended to read as follows:

"(10) provide assurances that the area agency on aging, in carrying out the long-term care ombudsman program under section 307(a)(12), will expend not less than the total amount of Federal funds expended by the agency in fiscal year 1991 in carrying out such a program under this title.".

(4) STATE PLANS.—Section 307(a) (42 U.S.C. 3027(a)) is amended—

(A) by striking paragraph (12) and inserting the following new paragraph:

"(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a long-term care ombudsman program in accordance with section 712 and this part.";

(B) by striking paragraph (21) and inserting the following new paragraph:

"(21) The plan shall provide assurances that the State agency, in carrying out the long-term care ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title."; and

(C) by striking paragraph (30) and inserting the following new paragraph:

"(30) The plan shall provide assurances that the State has submitted, or will submit, a State plan under section 705.".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—

(1) REPEAL.—Title III (42 U.S.C. 3021 et seq.) is amended by repealing part G.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 303 (42 U.S.C. 3023) is amended—

(A) by striking subsection (g); and

(B) by redesignating subsection (h) as subsection (g).

(3) STATE PLANS.—Section 307(a)(16) (42 U.S.C. 3027(a)(16)) is amended by striking ", if funds are not appropriated under section 303(g) for a fiscal year, provide that" and inserting "provide".

SEC. 112. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

The Act (42 U.S.C. 3001 et seq.) is amended by adding at the end the following new title:

"TITLE VII—GRANTS TO STATES FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

"Part A—General Provisions

"SEC. 701. ESTABLISHMENT.

"The Commissioner, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the Federal share of carrying out the elder rights activities described in parts B through E.

"SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

"(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out part B, $20,000,000 for fiscal year 1992, $21,000,000 for fiscal year 1993, $22,050,000 for fiscal year 1994, and $23,150,000 for fiscal year 1995.

"(b) PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 1992, $10,500,000 for fiscal year 1993, $11,020,000 for fiscal year 1994, and $11,570,000 for fiscal year 1995.

"(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out part D, $10,000,000 for fiscal year 1992, $10,500,000 for fiscal year 1993, $11,020,000 for fiscal year 1994, and $11,570,000 for fiscal year 1995.

"(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out part E, $15,000,000 for fiscal year 1992, $15,750,000 for fiscal year 1993, $16,540,000 for fiscal year 1994, and $17,360,000 for fiscal year 1995.

"SEC. 703. ALLOTMENT.

"(a) IN GENERAL.—

"(1) POPULATION.—In carrying out the program described in section 701, the Commissioner shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population age 60 and older in the State bears to the population age 60 and older in all States.

"(2) MINIMUM ALLOTMENTS.—

"(A) IN GENERAL.—After making the initial allotments described in paragraph (1), the Commissioner shall adjust the allotments in accordance with subparagraphs (B) and (C).

"(B) GENERAL MINIMUM ALLOTMENTS.—

"(i) MINIMUM ALLOTMENT FOR STATES.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

"(ii) MINIMUM ALLOTMENT FOR TERRITORIES.—Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

"(C) MINIMUM ALLOTMENTS FOR OMBUDSMAN AND ELDER ABUSE PROGRAMS.—

"(i) OMBUDSMAN PROGRAM.—No State shall be allotted, from the funds appropriated under section 702(a), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out the State long-term care ombudsman program under title III.

"(ii) ELDER ABUSE PROGRAMS.—No State shall be allotted, from the funds appropriated under section 702(b), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out programs with respect to the prevention of abuse, neglect, and exploitation of older individuals under title III.

"(D) DEFINITION.—For the purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(b) REALLOTMENT.—

"(1) IN GENERAL.—If the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Commissioner shall make the amount available to a State that the Commissioner determines will be able to use the amount for carrying out the purpose.

"(2) AVAILABILITY.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this title, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

"(c) WITHHOLDING.—If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 705, the Commissioner shall withhold the allotment of funds to the State. The Commissioner shall disburse the funds withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of the State submitting an approved plan under section 705, which includes an agreement that any such payment shall be matched, in the proportion determined under subsection (d) for the State, by funds or in-kind resources from non-Federal sources.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of carrying out the elder rights activities described in parts B through E is 85 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the costs shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

"SEC. 704. ORGANIZATION.

"In order for a State to be eligible to receive allotments under this title—

"(1) the State shall demonstrate eligibility under section 305;

"(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

"(3) any area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

"SEC. 705. STATE PLAN.

"(a) ELIGIBILITY.—In order to be eligible to receive allotments under this title, a State shall submit a State plan to the Commissioner, at such time, in such manner, and containing such information as the Commissioner may require. At a minimum, the State plan shall contain—

"(1) an assurance that the State will establish programs under parts B, C, D, and E in accordance with the requirements of this title;

"(2) an assurance that the State will hold public hearings to obtain the views of older individuals and other interested parties regarding programs carried out under this title;

"(3) an assurance that the State has submitted, or will submit, a State plan in accordance with section 307;

"(4) an assurance that the State will use funds made available under this title in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this title, to carry out the elder rights activities described in parts B through E;

"(5) an assurance that the State agrees to pay, with non-Federal funds, 15 percent of the cost of the carrying out each part of this title; and

"(6) an assurance that the State will place no restrictions, other than the requirements specified in section 712(a)(5)(C), on the eligibility of agencies or organizations for designation as local ombudsman entities under section 712(a)(5).

"(b) APPROVAL.—The Commissioner shall approve any State plan that the Commissioner finds fulfills the requirements of subsection (a).

"(c) NOTICE AND OPPORTUNITY FOR HEARING.—The Commissioner shall not make a final determination disapproving any State plan, or any modification of the plan, or make a final determination that a State is ineligible under section 704, without first affording the State reasonable notice and opportunity for a hearing.

"(d) NONELIGIBILITY OR NONCOMPLIANCE.—

"(1) FINDING.—The Commissioner shall take the action described in paragraph (2) if the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

"(A) the State is not eligible under section 704;

"(B) the State plan has been so changed that the plan no longer complies substantially with the provisions of subsection (a); or

"(C) in the administration of the plan there is a failure to comply substantially with a provision of subsection (a).

"(2) WITHHOLDING AND LIMITATION.—If the Commissioner makes the finding described in paragraph (1) with respect to a State agency, the Commissioner shall notify the State agency, and shall—

"(A) withhold further payments to the State from the allotments of the State under section 703; or

"(B) in the discretion of the Commissioner, limit further payments to the State to projects under or portions of the State plan not affected by the ineligibility or noncompliance, until the Commissioner is satisfied that the State will no longer be ineligible or fail to comply.

"(3) DISBURSEMENT.—The Commissioner shall, in accordance with regulations prescribed by the Commissioner, disburse funds withheld or limited under paragraph (2) directly to any public or nonprofit private organization or agency or political subdivision of the State that submits an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 703(d).

"(e) APPEAL.—

"(1) FILING.—

"(A) IN GENERAL.—A State that is dissatisfied with a final action of the Commissioner

under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with the court not later than 30 days after the final action. A copy of the petition shall be transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for the purpose.

"(B) RECORD.—On receipt of the petition, the Commissioner shall file in the court the record of the proceedings on which the action of the Commissioner is based, as provided in section 2112 of title 28, United States Code.

"(2) PROCEDURE.—

"(A) REMEDY.—On the filing of a petition under paragraph (1), the court described in paragraph (1) shall have jurisdiction to affirm the action of the Commissioner or to set the action aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Commissioner may modify or set aside the order of the Commissioner.

"(B) SCOPE OF REVIEW.—The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence. If the court remands the case, the Commissioner shall, within 30 days, file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(C) FINALITY.—The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) STAY.—The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the action of the Commissioner.

"(f) PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

"SEC. 706. ADMINISTRATION.

"(a) AGREEMENTS.—In carrying out the elder rights activities described in parts B through E, a State agency may, either directly or through a contract or agreement, enter into agreements with public or private nonprofit agencies or organizations, such as—

"(1) other State agencies;

"(2) county governments;

"(3) area agencies on aging;

"(4) universities and colleges; and

"(5) other statewide or local nonprofit service providers or volunteer organizations.

"(b) TECHNICAL ASSISTANCE.—

"(1) OTHER AGENCIES.—In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of such agencies and departments of the Federal Government as may be appropriate.

"(2) COMMISSIONER.—The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to programs established under this title and to individuals designated under the programs to be representatives of the programs.

"SEC. 707. AUDITS.

"(a) ACCESS.—The Commissioner and the Comptroller General of the United States and any of the duly authorized representatives of the Commissioner or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"(b) LIMITATION.—State agencies and area agencies on aging shall not request information or data from providers that is not pertinent to services furnished in accordance with this title or a payment made for the services.".

SEC. 113. OMBUDSMAN PROGRAMS.

Title VII (as added by section 112 of this Act) is amended by adding at the end the following new part:

"Part B—Ombudsman Programs

"SEC. 711. DEFINITIONS.

"As used in this part:

"(1) OFFICE.—The term 'Office' means the office established in section 712(b)(1)(A).

"(2) OMBUDSMAN.—The term 'Ombudsman' means the individual described in section 712(b)(2).

"(3) PROGRAM.—The term 'program' means the State long-term care ombudsman program established in section 712(b)(1)(B).

"(4) REPRESENTATIVE.—The term 'representative' includes an employee or volunteer who represents an entity designated under section 712(a)(5) and who is individually designated by the Ombudsman.

"SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section—

"(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

"(B) carry out through the Office a State long-term care ombudsman program.

"(2) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals described in section 201(d)(3).

"(3) FUNCTIONS.—The Ombudsman shall serve on a full-time basis, and shall, directly or through representatives of the Office—

"(A) identify, investigate, and resolve complaints that—

"(i) are made by, or on behalf of, older individuals who are residents of long-term care facilities; and

"(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents, of—

"(I) providers, or representatives of providers, of long-term care services;

"(II) public agencies; or

"(III) health and social service agencies;

"(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

"(C) inform the residents about means of obtaining services described in subparagraphs (A) and (B);

"(D) ensure that the residents have regular and timely access to the services provided through the Office and that residents and complainants receive timely responses to complaints from representatives of the Office;

"(E) represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

"(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

"(ii) recommend any changes in such laws, regulations, policies and actions that the Office determines to be appropriate; and

"(iii) facilitate public comment on the laws, regulations, policies, and actions;

"(H)(i) provide for training representatives of the Office;

"(ii) promote the development of citizen organizations, to participate in the program; and

"(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents of long-term care facilities; and

"(I) carry out such other activities as the Commissioner determines to be appropriate.

"(4) CONTRACTS AND ARRANGEMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or other appropriate private nonprofit organization.

"(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

"(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

"(ii) an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals).

"(5) DESIGNATION OF AREA OR LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

"(A) DESIGNATION.—In carrying out the duties of the Office, the Ombudsman may designate an entity as an area or local ombudsman entity, and may designate an employee or volunteer to represent the entity.

"(B) DUTIES.—An individual so designated shall, in accordance with the policies and provisions established by the Office and the State agency—

"(i) provide services to protect the health, safety, welfare and rights of residents of long-term care facilities;

"(ii) ensure that residents of long-term care facilities in the service areas of the entity have regular, timely access to representatives of the ombudsman program and timely responses to complaints and requests for assistance;

"(iii) identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of the residents;

"(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents of long-term care facilities; and

"(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

"(vi) support the development of resident and family councils; and

"(vii) carry out other activities that the Ombudsman determines to be appropriate.

"(C) ELIGIBILITY FOR DESIGNATION.—Area or local entities eligible to be designated as ombudsman entities, and persons eligible to be designated as representatives, shall—

"(i) have demonstrated capability to carry out the responsibilities of the Office;

"(ii) be free of conflicts of interest;

"(iii) in the case of the entities, be public or private not-for-profit entities; and

"(iv) meet such additional requirements as the Ombudsman may specify.

"(b) PROCEDURES FOR ACCESS.—

"(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

"(A) immediate access to long-term care facilities and the residents of the facilities;

"(B) appropriate access to review the medical and social records of a resident, if—

"(i) the representative has the permission of a resident, or the legal representative of a resident; or

"(ii) a resident is unable to consent to the review and has no legal representative;

"(C) access to administrative records of long-term care facilities; and

"(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

"(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

"(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

"(1) collect and analyze data relating to complaints and conditions in long-term care facilities or to residents of the facilities for the purpose of identifying and resolving significant problems; and

"(2) submit the data, on a regular basis, to—

"(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

"(B) other State and Federal agencies that the Ombudsman determines to be appropriate; and

"(C) the Commissioner.

"(d) DISCLOSURE.—

"(1) IN GENERAL.—The State agency shall establish procedures for the disclosure of files, and of records described in subsection (b)(1), that are maintained by the program.

"(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

"(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

"(B) prohibit the disclosure of the identity of any complainant or resident of a long-term care facility with respect to whom the State agency maintains such files or records unless—

"(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

"(ii) in a case in which the complainant or resident is mentally competent and unable to provide written consent due to physical infirmity or other extreme circumstance—

"(I) the complainant or resident gives consent orally; and

"(II) the consent is documented contemporaneously in a writing made by a representative of the Office and reported in writing to the State agency as soon as practicable; or

"(iii) the disclosure is required by court order.

"(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and provider entities.

"(f) CONFLICT OF INTEREST.—The State agency shall—

"(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

"(2) ensure that no officer, employee, or other representative of the Office, or member of the immediate family of the officer, employee, or other representative of the Office, is subject to a conflict of interest; and

"(3) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), including such mechanisms as—

"(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

"(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

"(g) LEGAL COUNSEL.—The State agency shall ensure that—

"(1)(A) adequate legal counsel is available to—

"(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents of long-term care facilities; and

"(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

"(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened in connection with the performance of the official duties of the Ombudsman or such a representative; and

"(2) the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

"(h) ADMINISTRATION.—The State agency shall require the Office to—

"(1) prepare an annual report—

"(A) describing the activities carried out by the Office in the year for which the report is prepared;

"(B) containing and analyzing the data collected under subsection (c);

"(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents of long-term care facilities;

"(D) containing recommendations for—

"(i) improving quality of the care and life of the residents; and

"(ii) protecting the health, safety, welfare, and rights of the residents;

"(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care homes; and

"(ii) identifying barriers that prevent the optimal operation of the program; and

"(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of the residents, to protect the health, safety, welfare, and rights of the residents, and to remove the barriers;

"(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of the residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

"(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

"(i) the problems and concerns of older individuals residing in long-term care facilities; and

"(ii) recommendations related to the problems and concerns; and

"(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

"(4) establish procedures for the training of the representatives of the Office including unpaid volunteers, that—

"(A) specify a minimum number of hours of initial training;

"(B) specify the content of the training, including training relating to—

"(i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

"(ii) investigative techniques; and

"(iii) such other matters as the State determines to be appropriate; and

"(C) specify an annual number of hours of in-service training for all designated representatives;

"(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

"(A) has received the training required under subsection (h)(4); and

"(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office.

"(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

"(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and

"(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance services provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means; and

"(8) include any area or local ombudsman entity designated by the Ombudsman under subsection (a)(5) as a subdivision of the Office.

"(i) LIABILITY.—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(j) NONINTERFERENCE.—The State shall—

"(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

"(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or other person for

filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

"(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

"SEC. 713. REGULATIONS.

"The Commissioner shall issue and periodically update regulations respecting conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f).".

SEC. 114. PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.

(a) PURPOSE.—The purpose of this section is to assist States in the design, development, and coordination of comprehensive services to prevent, treat, and remedy elder abuse, neglect, and exploitation.

(b) PROGRAMS.—Title VII (as added by section 112, and amended by section 113, of this Act) is amended by adding at the end the following new part:

"Part C—Programs for Prevention of Abuse, Neglect, and Exploitation

"SEC. 721. PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.

"(a) ESTABLISHMENT.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section, develop and enhance programs for the prevention of abuse, neglect, and exploitation of older individuals.

"(b) USE OF ALLOTMENTS.—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation, including—

"(1) providing for public education and outreach to identify and prevent abuse, neglect, and exploitation of older individuals;

"(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program;

"(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

"(4) conducting analysis of State information concerning elder abuse, neglect, and exploitation and identifying unmet service or intervention needs;

"(5) conducting training for individuals, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

"(6) providing technical assistance to programs that provide or have the potential to provide services for victims of abuse, neglect, and exploitation and for family members of the victims;

"(7) conducting special and on-going training, for individuals involved in serving victims of abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined to be a State agency to be appropriate; and

"(8) developing an elder abuse, neglect, and exploitation system—

"(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

"(B) under which a State agency—

"(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

"(ii) on a finding of abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited elder;

"(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

"(i) such administrative procedures;

"(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

"(iii) such training procedures;

"(iv) such institutional and other facilities (public and private); and

"(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

"(D) that preserves the confidentiality of records in order to protect the rights of elders;

"(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

"(F) that enables an elder to participate in decisions regarding the welfare of the elder, and makes the least restrictive alternatives available to an elder who is abused, neglected, or exploited; and

"(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

"(i) the problems of elder abuse, neglect, and exploitation;

"(ii) the facilities; and

"(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

"(c) APPROACH.—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

"(d) COORDINATION.—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

"(1) adult protective service programs;

"(2) the long-term care ombudsman program established in part B;

"(3) protection and advocacy programs;

"(4) facility and other long-term care provider licensure and certification programs;

"(5) medicaid fraud and abuse services;

"(6) victim assistance programs; and

"(7) consumer protection and law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals.

"(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

"(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

"(2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and making a referral described in subsection (b)(8)(B)(ii), shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; and

"(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirements described in paragraph (2).".

SEC. 115. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAMS.

Title VII (as added by section 112, and amended by sections 113 and 114(b), of this Act) is further amended by adding at the end the following new part:

"Part D—State Elder Rights and Legal Assistance Development Program

"SEC. 731. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section, establish a program to provide leadership for expanding the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights system.

"(2) FOCUS.—In carrying out the program established under this part, the State agency shall coordinate the providers in the State that assist older individuals in—

"(A) understanding the rights of the individuals;

"(B) exercising choice;

"(C) benefiting from services and opportunities promised by law;

"(D) maintaining rights consistent with the capacity of the individuals; and

"(E) solving disputes using the most efficient and appropriate methods for representation and assistance.

"(b) FUNCTIONS.—In carrying out this part, the State agency shall—

"(1) establish a focal point for elder rights policy review, analysis, and advocacy at the State level, including such issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decisionmaking, protective services, public benefits, and dispute resolutions;

"(2) provide a State legal assistance developer and other personnel sufficient to ensure—

"(A) State leadership in securing and maintaining legal rights of older individuals;

"(B) capacity for coordinating the provision of legal assistance; and

"(C) capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate;

"(3)(A) develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals; and

"(B) provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the individuals with greatest economic and social need (with particular attention to low-income minority individuals);

"(4) provide consultation to, and ensure, the coordination of activities with the legal assistance services provided under title III, services provided by the Legal Service Corporation, and services provided under parts B, C, and E, as well as other State or Federal programs administered at the State and local levels that address the legal assistance needs of older individuals;

"(5) provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

"(6) promote the development of, and provide technical assistance concerning, pro bono legal assistance programs, State and local bar committees on aging, legal hot lines, alternative dispute resolution, aging law curricula in law schools and other appropriate educational institutions, and other methods to expand access by older individuals to legal assistance and other advocacy and elder rights services;

"(7) provide for periodic assessments of the status of elder rights in the State, including analysis—

"(A) of the unmet need for assistance in resolving legal problems and benefits-related problems, methods for expanding advocacy services, the status of substitute decision-making systems and services (including systems and services regarding guardianship, representative payee, and substitute decisionmaking for health care), access to courts and the justice system, and the implementation of civil rights and age discrimination law in the State; and

"(B) of problems and unmet needs identified in programs established under title III and other programs; and

"(8) develop working agreements with—

"(A) State entities, including the consumer protection agency, the court system, the attorney general, the State equal employment opportunity commission, and other appropriate State agencies and entities; and

"(B) Federal entities, including the Social Security Administration and the Veterans' Administration, and other appropriate entities, for the purpose of identifying elder rights services provided by the entities, and coordinating services with programs established under title III and parts B, C, and E of the title.".

SEC. 116. OUTREACH, COUNSELING, AND ASSISTANCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to provide outreach, counseling, and assistance in order to assist older individuals in obtaining benefits under—

(1) public and private health insurance, long-term care insurance, and life insurance programs; and

(2) public benefit programs to which the individuals are entitled, including benefits under the supplemental security income, medicaid, medicare, food stamp, and low-income home energy assistance programs.

(b) PROGRAM.—Title VII (as added by section 112, and amended by sections 113, 114(b), and 115, of this Act) is amended by adding at the end the following new part:

"Part E—Outreach, Counseling, and Assistance Program

"SEC. 741. STATE OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFIT PROGRAMS.

"(a) DEFINITIONS.—As used in this section:

"(1) INSURANCE PROGRAM.—The term 'insurance program' means—

"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

"(C) another public or private insurance program.

"(2) PUBLIC BENEFIT PROGRAM.—The term 'public benefit program' means—

"(A) the medicaid program established under title XIX of the Social Security Act;

"(B) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(C) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(D) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(E) with respect to a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), the medicare program described in title XVIII of the Social Security Act; or

"(F) another public benefit program.

"(3) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

"(4) STATE INSURANCE ASSISTANCE PROGRAM.—The term 'insurance assistance program' means the program established under subsection (b)(1).

"(5) STATE PUBLIC BENEFIT ASSISTANCE PROGRAM.—The term 'public benefit assistance program' means the program established under subsection (b)(2).

"(b) ESTABLISHMENT.—In order to receive an allotment under section 703, a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish—

"(1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining benefits under an insurance program; and

"(2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, benefits under a public benefit program, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act.

"(c) INSURANCE AND PUBLIC BENEFITS PROGRAMS.—The State agency shall—

"(1) in carrying out a State insurance assistance program—

"(A) provide information and counseling to assist older individuals—

"(i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act;

"(ii) in comparing medicare supplemental policies and in filing claims and obtaining benefits under such policies;

"(iii) in comparing long-term care insurance policies and in filing claims and obtaining benefits under such policies;

"(iv) in comparing other types of health insurance policies not described in clause (iii) and in filing claims and obtaining benefits under such policies;

"(v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies; and

"(vi) in comparing other forms of insurance policies not described in clause (v) and in filing claims and obtaining benefits under such policies as determined necessary; and

"(B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health and other forms of insurance and public benefits programs;

"(C) ensure that services provided under the program will be coordinated with programs established under parts B, C, and D of this title, and under title III;

"(D) provide for adequate and trained staff (including volunteers) necessary to carry out the program;

"(E) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) will not be subject to a conflict of interest in providing services under the program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance and public benefits programs;

"(G) provide for the coordination of information on insurance programs between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, health or other insurance; and

"(2) in carrying out a State public benefits assistance program—

"(A) carry out activities to identify older individuals with the greatest economic need who may be eligible for, but who are not receiving, benefits or assistance under a public benefits program;

"(B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits;

"(C) assist older individuals in applying for such assistance and such benefits;

"(D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government regarding the problems of older individuals related to public benefit programs;

"(E) comply with the requirements specified in subparagraphs (C) through (E) of paragraph (1) with respect to the State public benefits assistance program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits programs;

"(G) provide for the coordination of information on public benefits programs between the staff of departments and agencies of the State government and the staff (including volunteers) of the State public benefits assistance program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, benefits under a public benefits program.

"(d) ADMINISTRATION.—The State agency may operate the State insurance and State public benefits assistance programs directly, in cooperation with other State agencies, or under an agreement with a statewide nonprofit organization, area agency on aging, or

another public, or nonprofit agency or organization.

"(e) MAINTENANCE OF EFFORT.—Any funds appropriated for the activities under this part shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local insurance or public benefits program.

"(f) COORDINATION.—A State that receives an allotment under section 703 and receives a grant under section 4360 of the Omnibus Reconciliation Act of 1990 (42 U.S.C. 1395b-4) to provide services in accordance with the section shall coordinate the services with activities provided by the State agency through the programs described in paragraphs (1) and (2) of subsection (b).".

SEC. 117. TECHNICAL AND CONFORMING AMENDMENTS.

(a) OMBUDSMAN PROGRAM.—

(1) SOCIAL SECURITY ACT.—

(A) Section 1819 of the Social Security Act (42 U.S.C. 1395i-3) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(B) Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(2) OLDER AMERICANS ACT OF 1965.—

(A) Section 207(b) (42 U.S.C 3018(b)) is amended—

(i) in paragraph (1)(A), by striking "by section 307(a)(12)(C)" and inserting "under titles III and VII in accordance with section 712(c)"; and

(ii) in paragraph (3)—

(I) by striking "by section 307(a)(12)(H)(i)" and inserting "under titles III and VII in accordance with section 712(h)(1)"; and

(II) by striking subparagraph (E) and inserting the following new subparagraph:

"(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).".

(B) Section 301(c) (42 U.S.C. 3021(c)) is amended by striking "section 307(a)(12), and to individuals designated under such section" and inserting "under section 307(a)(12) in accordance with section 712, and to individuals designated under section 712".

(C) Section 304 (42 U.S.C. 3024) is amended—

(i) in subsection (a)(3), by striking "303(a)(3)" and inserting "303(a)(2)"; and

(ii) in subsection (d)(1), by striking "303(a)(3)" each place the term appears and inserting "303(a)(2)".

(D) Section 307(a)(31)(A) (42 U.S.C. 3027(a)(31)(A)) is amended by striking "303(a)(3)" and inserting "303(a)(2)".

(E) Section 351(4) (42 U.S.C. 3030l(4)) is amended by striking "under section 307(a)(12)" and inserting "under titles III and VII in accordance with section 712".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—

(1) Section 303 (42 U.S.C. 3023) is amended—

(A) in subsections (a)(2), (e), and (f), by striking "subsection (h)" and inserting "subsection (g)"; and

(B) in subsection (g), (as redesignated by section 111(b)(2)(B) of this Act), by striking "parts E, F, and G" and inserting "parts E and F".

(2) Section 307(a)(31)(D) (42 U.S.C. 3027(a)(31)(D)) is amended by striking "section 307(a)(31)(B)" and inserting "subparagraph (B)".

(3) Section 321(15) (42 U.S.C. 3030d(15)) is amended by striking "clause (16) of section 307(a)" and inserting "part C of title VII".

(4) Section 431(b) (42 U.S.C. 3037(b)) is amended by striking "parts E, F, and G" and inserting "parts E and F".

Subtitle C—Demonstration Programs

SEC. 121. LONG-TERM CARE OMBUDSMAN DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—Section 427(a) (42 U.S.C. 3035f(a)) is amended by inserting ", legal assistance agencies," after "ombudsman program".

(b) REAUTHORIZATION.—Section 431(a)(2) (42 U.S.C. 3037(a)(2)) is amended—

(1) in the first sentence, by striking "$1,000,000 for fiscal year 1989" and inserting "$1,000,000 for fiscal year 1993"; and

(2) in the second sentence, by striking "fiscal year 1990" and inserting "fiscal year 1994".

SEC. 122. HOUSING OMBUDSMAN DEMONSTRATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) older individuals who live in, or are attempting to become residents of, publicly assisted housing experience a range of problems related to the housing situations, the condition of homes, and the economic status of the individuals;

(2) problems that older individuals experience in relation to Federal and other public housing programs include—

(A) legal and nonlegal issues;

(B) housing quality issues;

(C) security and suitability problems; and

(D) issues related to regulations of the Department of Housing and Urban Affairs and the Farmers Home Administration;

(3) participants and nonparticipants in Federal and other public housing programs have concerns regarding specific program information, processes, procedures, and requirements of housing programs;

(4) the problems and issues that older individuals face are not currently being addressed in a systematic and comprehensive manner;

(5) interest groups and senior citizen service organizations offer a variety of services, but do not necessarily focus on housing problems;

(6) there is a need for a mechanism to assist older individuals in resolving the problems, and protecting the rights, safety, and welfare of the individuals;

(7) the long-term care ombudsman programs established under the Older Americans Act of 1965 have exhibited great success in protecting the rights and welfare of nursing home residents through work on complaint resolution and advocacy; and

(8) an approach similar to the approach used under the long-term care ombudsman programs could be used to address the housing problems that older individuals experience.

(b) PURPOSES.—The purposes of this section are—

(1) to ensure the quality and accessibility of publicly assisted housing programs for older individuals;

(2) to assist older individuals seeking Federal, State, and local assistance in the housing area in receiving timely and accurate information and fair treatment regarding public housing programs and related eligibility requirements;

(3) to enable older individuals to remain in publicly assisted homes and live independently for as long as possible;

(4) to enable older individuals to obtain and maintain affordable and suitable housing that addresses the special needs of the individuals; and

(5) to protect older individuals participating in Federal and other publicly assisted housing programs from abuse, neglect, exploitation, or other illegal treatment in publicly assisted housing programs.

(c) DEMONSTRATION PROGRAM.—Title IV (42 U.S.C. 3030aa et seq.) is amended—

(1) by redesignating part C as part D;

(2) by inserting after section 426 the following:

"PART C—ELDER RIGHTS PROTECTION DEMONSTRATION PROJECTS"; AND

(3) in part C (as designated by paragraph (2) of this subsection), by adding at the end the following new section:

"SEC. 429. HOUSING OMBUDSMAN DEMONSTRATION PROGRAM.

"(a) GRANTS.—The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

"(b) USE OF GRANTS.—An eligible agency shall use a grant awarded under subsection (a) to—

"(1) establish a housing ombudsman program that provides information, advice, and advocacy services including—

"(A) direct assistance, or referral to services, to resolve complaints or problems;

"(B) provision of information regarding available housing programs, eligibility, requirements, and application processes;

"(C) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

"(D) advocacy related to promoting—

"(i) the rights of the older individuals who are residents in publicly assisted housing programs; and

"(ii) the quality and suitability of housing in the programs; and

"(E) assistance with problems related to—

"(i) threats of eviction or eviction notices;

"(ii) older buildings;

"(iii) functional impairments as the impairments relate to housing;

"(iv) discrimination;

"(v) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

"(vi) disability issues;

"(vii) intimidation, harassment, or arbitrary management rules;

"(viii) grievance procedures;

"(ix) certification and recertification related to programs of the Department of Housing and Urban Development and the Farmers Home Administration; and

"(x) issues related to transfer from one project or program to another; and

"(2) provide the services described in paragraph (1) through—

"(A) professional and volunteer staff to older individuals who are—

"(i) participating in federally assisted and other publicly assisted housing programs; or

"(ii) seeking Federal, State, and local housing programs; and

"(B)(i) the long-term care ombudsman program under section 307(a)(12) or section 712;

"(ii) a legal services or assistance organization or through an organization that provides both legal and other social services;

"(iii) a public or not-for-profit social services agency; or

"(iv) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.

"(c) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (a) to agencies in varied geographic settings.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(1) an assurance that the agency will conduct appropriate training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program; and

"(2) an acceptable plan to involve in the demonstration program the Department of Housing and Urban Development, the Farmers Home Administration, any entity described in subsection (b)(3) through which the agency intends to provide services, and other agencies involved in publicly assisted housing programs.

"(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

"(1) State agencies;

"(2) area agencies on aging, applying in conjunction with State agencies; and

"(3) other appropriate nonprofit entities, including providers of services under the State long-term ombudsman program and the elder rights and legal assistance development program described in parts B and D of title VII, respectively.

"(f) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

"(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

"(B) submit a report containing the evaluation to the appropriate committees of Congress.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) (42 U.S.C. 3037(a)) is amended—

(1) in paragraph (1), by striking "the provisions of this title (other than sections 427 and 428)" and inserting "sections 420 through 426 of this title"; and

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

"(4) There are authorized to be appropriated to carry out section 429, $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the subsequent fiscal years.".

TITLE II—DEFINITIONS

SEC. 201. DEFINITIONS.

(a) DEFINITIONS.—Section 102 (42 U.S.C. 3002) is amended by adding at the end the following new paragraphs:

"(13) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by an individual, including a caretaker, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(14) The term 'Administration' means the Administration on Aging.

"(15) The term 'aging network' means—

"(A) the network of agencies established in section 305, including the Administration, State agencies, and area agencies on aging; and

"(B) persons that—

"(i) are providers of direct services to older individuals; and

"(ii) receive funding under this Act.

"(16) The term 'area agency on aging' means an agency designated under section 305(a)(2)(A) by a State agency.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'conflict of interest' means—

"(A) a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

"(B) an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a provider of a long-term care service;

"(C) employment by, or participation in the management of, a long-term care facility; or

"(D) the receipt, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

"(19) The term 'elder abuse' means abuse of an older individual.

"(20) The term 'exploitation' means the illegal or improper act or process of an individual, including a caretaker, using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(21) The term 'focal point' means a facility established to encourage the maximum collocation and coordination of services for older individuals.

"(22) The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.

"(23) The term 'greatest social need' means the need caused by noneconomic factors, which include—

"(A) physical and mental disabilities;

"(B) language barriers; and

"(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

"(i) restricts the ability of an individual to perform normal daily tasks; or

"(ii) threatens the capacity of the individual to live independently.

"(24) The term 'information and assistance service' means a service for older individuals that—

"(A) provides the individuals with current information on all opportunities and services available to the individuals within their communities, including information relating to assistive technology;

"(B) assesses the problems and capacities of the individuals;

"(C) links the individuals to the opportunities and services that are available;

"(D) ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

"(E) serves the entire community of older individuals, particularly individuals with the greatest social and economic need.

"(25) The term 'legal assistance'—

"(A) means legal advice and representation by an attorney to older individuals with economic or social needs; and

"(B) includes—

"(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney; and

"(ii) counseling or representation by a nonlawyer where permitted by law.

"(26) The term 'long-term care facility' means—

"(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a));

"(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

"(C) any institution regulated by a State in accordance with section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)) for purposes of sections 307(a)(12) and 712; and

"(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

"(27) The term 'neglect' means—

"(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

"(B) the failure of a caretaker to provide the goods or services.

"(28) The term 'older individual' means any individual who is 60 years of age or older.

"(29) The term 'physical harm' means bodily pain, injury, impairment, or disease.

"(30) The term 'planning and service area' means an area specified by a State agency under section 305(a)(1)(E).

"(31) The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(32) The term 'State agency' means the State agency designated by a State under section 305(a)(1).

"(33) The term 'unit of general purpose local government' means—

"(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

"(B) an Indian tribal organization.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 102(2), 201(c)(1), 211, 301(b)(1), 402(a), 411(b), 503(a), and 505(a) (42 U.S.C. 3002(2), 3011(c)(1), 3020b, 3021(b)(1), 3030bb(a), 3031(b), 3056a(a), and 3056c(a)) are amended by striking "Administration on Aging" and inserting "Administration".

(2) Section 201(a) (42 U.S.C. 3011(a)) is amended in the first sentence by striking—

(A) "(hereinafter in this Act referred to as the 'Administration')"; and

(B) "(hereinafter in this Act referred to as the 'Commissioner')";

(3) Section 302 (42 U.S.C. 3022) is amended—

(A) by striking paragraphs (2) through (7), (9), (11), and (14) through (21);

(B) by redesignating paragraph (8) as paragraph (2); and

(C) by redesignating paragraph (10) as paragraph (3).

(4) Section 307(a)(31)(A)(i) (42 U.S.C. 3027(a)(31)(A)(i)) is amended by striking "(as defined in section 302(20))".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any plan that is—

(1)(A) an area plan submitted under section 306(a) of the Older Americans Act of 1965; or

(B) a State plan submitted under section 307(a) of such Act; and

(2) approved for any fiscal year beginning before the date of the enactment of this Act.

Mr. DECONCINI. Mr. President, I am pleased to join my distinguished colleague, Senator ADAMS, in support of the Vulnerable Elders' Rights Protection Amendments of 1991 which is being introduced today. This important legislation would create a new title VII in the Older Americans Act in order to strengthen and protect the rights of older Americans and assist them in making independent decisions and leading independent lives. Senator ADAMS has done a masterful job in improving and expanding what is already a landmark piece of legislation—the watershed Older Americans Act. Specifically, the legislation introduced today seeks to protect the rights of residents in long-term care facilities; to meet the legal assistance needs of the elderly; and to ensure full access to resources and benefits to which older individuals are entitled under the law.

At a time when the number of elder abuse cases in America is soaring, this legislation would also establish a coordinated national approach to protecting older individuals from abuse, neglect, and exploitation. These provisions, in large part, are based on legislation which I introduced earlier this year in the Senate and which Representative MARY ROSE OAKAR introduced in the House of Representatives. I am most pleased that Senator ADAMS has included them in his comprehensive bill.

As best we know today, an estimated 1.5 million older Americans are abused every year. This is a dramatic increase from a decade ago—a 50 percent rise in the last 10 years. What this means is that one out of every 20 older Americans is abused each year, most by sons and daughters and many at the hands of nursing home caregivers or con artists. The abuse can range from theft of a Social Security check to violent physical abuse, including rape and murder.

In Massachusetts, a 20-year-old man was convicted of the first-degree murder of his grandmother. He had repeatedly beaten her over the head with a decanter and stabbed her with a knitting needle. After the murder, the grandson stole his dead grandmother's car and jewelry. Today he is serving a life sentence in State prison.

In Texas, a 68-year-old woman was found by social workers tied to her wheelchair with electrical cords and sheets. She had been beaten by her daughter, who had also allowed her own 8-year-old daughter to whip her grandmother. The cases go on and on. And the one indisputable conclusion they all reach is this: In a country that is second to none, senior citizens should not—they must not—live out their golden years in situations such as these. As Claude Pepper has stated, elder abuse is indeed "a national disgrace."

Tragically, most cases of elder abuse go unreported. Ten years ago one out of every five cases of elder abuse was reported; today only one out of every eight cases is, even though many States have mandatory reporting laws.

The problem is compounded by the fact that Congress and the States are spending less money on adult protective services at a time when elder abuse cases are skyrocketing. Since 1980, the Social Services Block Grant—the principal tool we have for protective services—has been cut by one-third. Faced with a cut in Federal assistance and hard-pressed by their own tight budgets, States, on average, are spending 40 percent less on adult protective services than they did a decade ago. According to information compiled by the U.S. House of Representatives Select Committee on Aging, States spent about $45 per child resident for Child Protective Services in 1989. These same States spent only $3 on average for elder abuse victims in that same year.

Among its provisions, the Vulnerable Elders' Rights Protection Amendments would enlarge and improve the existing elder abuse prevention program initially authorized in the 1987 amendments to the Older Americans Act. It would create a National Center on Elder Abuse under the auspices of the Administration on Aging within the Department of Health and Human Services. The Center would compile, publish, and disseminate a summary of recent research on elder abuse; develop an information clearinghouse on all programs showing promise of success in addressing the problem; and conduct demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation. In addition, the act would authorize grants to the States to build on existing elder abuse programs or to develop new programs for the prevention and treatment of elder abuse, neglect, and exploitation.

Mr. President, I commend Senator ADAMS for all the time and thought and effort which he put into this legislation. This measure is vitally needed protection for the rights of older Americans. It is, above all, an investment in human dignity and self-fulfillment. I encourage my colleagues to join me in supporting this important legislation.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MOYNIHAN, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 39

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 140

At the request of Mr. WIRTH, the names of the Senator from Florida [Mr. MACK] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 401

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 447

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 477, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 752

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 752, a bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent.

S. 773

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. DASHLE] was added as a cosponsor of S. 773, a bill to amend title XIX of the Social Security Act to create a new part under such title to provide access to services for medically underserved populations not currently served by federally qualified health centers, by providing funds for a new program to allow federally qualified health centers and other qualifying entities to expand such centers' and entities' capacity and to develop additional centers.

S. 785

At the request of Mr. BURNS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 785, a bill to establish a commission to study existing laws and procedures relating to mining, other than coal mining, and in particular the effects of existing laws and procedures relating to location and disposition of minerals on public lands of the United States and their effect on the policy statement set forth in the Mining and Minerals Policy Act of 1970, and for other purposes.

S. 846

At the request of Mr. GLENN, his name was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 884

At the request of Mr. PACKWOOD, the name of the Senator from Minnesota [Mr. WELLSTONE] 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 drift net fishing.

S. 921

At the request of Mr. DOLE, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 921, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mine coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the the Flag.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program

S. 1240

At the request of Mr. CHAFEE, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Florida [Mr. GRAHAM], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1240, a bill to amend title XIX of the Social Security Act to provide criteria for making determinations of denial of payment to States under such act.

S. 1363

At the request of Mr. PACKWOOD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1363, a bill to ensure the stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes.

S. 1378

At the request of Mr. DIXON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1378, a bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress.

S. 1423

At the request of Mr. DODD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

SENATE JOINT RESOLUTION 74

At the request of Mr. LIBERMAN, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. BURDICK], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 138, a joint resolution to designate October 1991, as "National Lock-In-Safety Month."

SENATE JOINT RESOLUTION 143

At the request of Mr. RIEGLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to designate the week of August 4 through August 10, 1991, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. INOUYE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 161, a joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American war veterans in the District of Columbia or its environs, and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. CRANSTON, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters.

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

AMENDMENT NO. 460

At the request of Mr. LIEBERMAN, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of amendment No. 460 intended to be proposed to S. 1241, a bill to control and reduce violent crime.

SENATE CONCURRENT RESOLUTION 52—CONDEMNING RESURGENT ANTI-SEMITISM AND ETHNIC INTOLERENCE IN ROMANIA

Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 52

Whereas in December 1989, after decades of harsh repression by successive Communist regimes in Romania, a violent uprising overthrew the brutal dictatorship of Nicolae Ceausescu;

Whereas this historic event has opened the way for the people of Romania to join the other nations of Central and Eastern Europe in establishing a free and democratic political system and a free market economy;

Whereas a reunited Europe, meaning a harmonious community of free and friendly nations, must be established on the basis of full respect for human rights, including the rights of minorities, and a rejection of anti-Semitism and other forms of ethnic and religious intolerance;

Whereas the newly gained freedom in Romania has allowed the formation of new social and political organizations, and the establishment of new publications free of direct government control;

Whereas this freedom has also given rise to a revival of extremist organizations and publications promulgating national chauvinism, ethnic hatred, and anti-Semitism;

Whereas Romania's parliament, instead of condemning these developments, itself paid tribute recently to the extreme nationalist Ion Antonescu who was responsible for the murder of approximately 250,000 Romanian Jews and was executed as a war criminal;

Whereas the Nobel Peace laureate author and humanist Elie Wiesel recently visited Romania, the country of his birth, to observe and report on these dangerous anti-Semitic trends;

Whereas even the recent solemn commemoration of the 50th anniversary of the mass murder of Romania's Jews by the Antonescu government was marred by an anti-Semitic provocation against Professor Wiesel; and

Whereas the government of Romania has not challenged and condemned these organizations and their activities directly and forthrightly: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurrently), That the Congress—

(1) condemns the resurgence of organized anti-Semitism, and ethnic animosity in Romania, including the existence of extremist organizations and publications dedicated to such repugnant ideas;

(2) calls on the Government of Romania unambiguously to condemn those organizations promulgating anti-Semitism and animosity toward ethnic Hungarians, Gypsies, and other minorities;

(3) calls on the Government of Romania to use every lawful means to curb these repugnant organizations and their activities and to strengthen the forces of tolerance and pluralism existing in Romanian society;

(4) calls on the Government of Romania to ensure full respect for internationally recognized human rights, including the rights of minorities; and

(5) calls on the President of the United States to ensure that progress by the Government of Romania in combating anti-Semitism and in protecting the rights and safety of its ethnic minorities shall be a significant factor in determining levels of assistance to Romania.

• Mr. DODD. Mr. President, together with my colleagues, Senators LIEBERMAN, LAUTENBERG, and WELLSTONE, I am introducing a Senate concurrent resolution in response to increasing and rather disquieting signs of a resurgence of anti-Semitism and other forms of bigotry and intolerance in Romania.

The recent liberation of the nations and central and eastern Europe have filled us with joy and expectations of a brighter, freer, more prosperous future for those long-suffering peoples.

It was also obvious, however, that four decades of communism had left a painful legacy in these countries, not only in a mismanaged economy, but also in the minds of some of the people who were unaccustomed not only to the advantages of freedom, but also to the responsibilities that must come with freedom.

The country of Romania seems to have had much greater difficulties in getting a stable transition process on track than most other countries of the former Warsaw Pact. Romania's revolution was much more violent, and violence or the threat of it unfortunately has remained part of Romanian political life ever since.

It was the rampage of Government-incited thugs, recruited from among miners a year ago, that received the widest publicity in the western press. Months before, however, shortly after the December 1989 uprising, there was a bloody street pogrom against ethnic Hungarians in a Transylvanian town. The Government is also incapable or unwilling to curb the more and more frequent cases of organized violence against the country's gypsy population.

Recently, another ugly face of extremism is gaining ground in that country, anti-Semitism. Several recent incidents show that anti-Semitic organizations and publications can operate almost unchallenged in Romania.

For calling attention to this latest appearance of the worst social aberration of this century, we are all indebted to the great humanist and teacher, Elie Wiesel. Elie recently visited Romania, the country of his birth, to personally investigate and verify these disturbing developments, and report to the American people. What he found deeply disturbed him and every one of us.

Even the solemn commemoration of the 50th anniversary of the first mass murder of Jews by the Romanian Army and police was not sacred to the forces of anti-Semitism. Elie Wiesel's eulogy was rudely interrupted by anti-Semitic taunts in the east Romanian town of Iasi just 9 days ago.

As of yet, no violence occurred against Jewish targets. This may be in part due to the fact that the Jewish community has by now been reduced to a mere 18,000 souls. It is hard for me to imagine what may drive a depraved mind that regards this group of mostly elderly people as a threat or challenge. We must remember however, that Hitler did not start with violence either, and what he advocated, did not make much sense either. Still, he succeeded in poisoning a whole generation.

Mr. President, this resolution speaks for itself. It is meant to be a warning to the Government of Romania to be much more firm and resolute in facing the forces of evil in that society. It is also a call to the Romanian people to cleanse the public life of the country of these elements.

Anti-Semities, chauvinists, ethnic hatemongers, are enemies not only of the targeted minorities, but also of the peace, the future, the development of the Romanian people itself. I hope most of them realize that the transition to a modern, free, pluralistic society and a functioning free market economy is difficult enough without the rampage of those who are spreading hatred to further divide the citizens of that country. I hope once this resolution passes, our words will be heard.

Mr. President, I want to commend Professor Elie Wiesel for this latest service in his continuing mission for a better, healthier human society.

I ask unanimous consent that three relevant newspaper articles and one editorial be printed in the RECORD at this point.

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

[From the New York Times, June 19, 1991]

RISING VERBAL ATTACKS SHAKE ROMANIA'S JEWS

(By Henry Kamm)

BUCHAREST, ROMANIA.—In late April, on the eve of the 45th anniversary of his execution as a war criminal, Marshal Ion Antonescu, the dictator who led his country in joining Hilter's invasion of the Soviet Union, was honored by the Romanian Parliament as it rose in a minute of silent tribute. The dictator ordered pogroms and deportations to death camps that took the lives of at least 250,000 Jews.

The homage was the most formal action in a rising of nationalist and anti-Semitic propaganda that has caused deep apprehension among the 18,000 Jews remaining in Romania and other minorities, but it provoked no significant internal opposition.

The campaign so far is limited to verbal attacks, and no violence against Jews has been reported. But Jewish fears are heightened because the verbal attacks appear not only in the far-right press but also in mainstream newspapers, and because the authorities have taken no action despite a call by President Ion Iliescu for enforcement of a law against the publication of incitement to ethnic hatred.

No one opposed the parliamentary motion honoring Antonescu, offered by an obscure member of the Assembly from the governing National Salvation Front. only a handful of deputies representing the ethnic Hungarian minority refused to join in the tribute.

PRESS NEARLY UNANIMOUS

Mr. Iliescu has condemned Antonescu's rule, and the Government of Prime Minister Petre Roman has denounced the resurgence of anti-Semitism. But in the weeks before and after the anniversary on May 1, virtually all newspapers and weeklies, including those that support the Government, published articles praising Antonescu as a great patriot, denouncing the Soviet Union for ordering his execution and condemning King Michael for not pardoning him.

"It has become a cult," said Smaranda Enache, a leading member of the Civic Alliance, an organization of political liberals that opposes the Antonescu revival but has taken no stand against Parliament's action.

When questioned about it at a news conference last week, Mr. Iliescu dissociated himself from the tributes and condemned Antonescu's rule. But only two newspapers reported that, and both condemned the President's stand.

Romanians and foreign diplomats credited Mr. Iliescu with exceptional political courage in taking a stand against the broadening stream of assertive nationalism. They view that sentiment—with its permutations of anti-Russian, anti-Hungarian, anti-Jewish, and generally anti-foreign themes—as the only ideology shared by the dozens of political groupings in this dispirited nation of 23 million, which overthrew President Nicolae Ceausescu's Communist dictatorship in December 1989.

SPECULATION ABOUT MOTIVES

Jews and other Romanians, as well as foreign diplomats, venture various guesses at the motivation for the growing anti-Semitism. Most cite the general rise of nationalism, of which slander against Jews is a classical component in this region. Some believe that the Prime Minister, whose father was a Jew, is an implicit target. Others note that Jews, as well as ethnic Hungarians, were prominent among the early Communists, whom Moscow installed in power in 1944.

Chief Rabbi Moses Rosen, who has received many threats, said he believed that the campaign might be an attempt to discredit ceremonies July 1 and 2 to commemorate the 50th anniversary of a mass killing of Romanian Jews. President Iliescu has said he will attend the unveiling of a monument in the courtyard of the Bucharest Synagogue.

But a majority of those questioned considered the outbreak one more irrationality in

a country suffering from profound economic, social and political malaise, against which the disunited leadership has found few positive policies and only minimal foreign support.

"Anti-Semitism was there right at the beginning of the revolution," Florin Bican of the Writers Union said, referring to the revolt against the Ceausescu Government. "On the day before Christmas '89, right after Ceausescu fell, I already heard one young primitive say to another, 'We have to get rid of the Yids next.'"

Bogdan Baltazar, the Government spokesman, has issued two strong condemnations of anti-Semitism, as well as a formal Government statement denouncing it. But he said in an interview that none had aroused significant press interest.

The main standard-bearer of extreme nationalism, based on the idea of ethnically "pure" Romanians, is Romania Mare, the country's largest weekly, with a circulation of 500,000. Its principal editors are Eugen Barbu and Corneliu Vadim Tudor, two of the most aggressive propagandists of the Ceausescu days, and Mircea Musat, chief censor of history in the old regime.

COMPLAINTS ABOUT 'KEY JOBS'

In a discussion of "the Jewish problem," Mr. Tudor wrote in April that he had nothing against Jews as long as they "leave this country alone." But he said that they held too many "key jobs," and that Parliament and the Government were "full of Jews." In a later issue, Mr. Tudor also demanded the expulsion of all gypsies.

Mr. Baltazar said he doubted that there were any Jews in Mr. Roman's Government. The Prime Minister is the son of a Jewish-born atheist father and a Roman Catholic mother, who had him baptized. Mr. Roman has taken the precaution of having his baptismal certificate published in Azi, the governing front's daily.

A smaller weekly, Europa, devotes itself almost single-mindedly to anti-Semitic themes. The articles of its publisher, Ilie Neacsu, are studded with citations from classics of French, English and German anti-Semitic literature.

Although the Government has condemned Europa's anti-Semitism, photographs of two of its principal ministers were featured on an April front page over facsimiles of letters they had sent to Mr. Neacsu thanking him for contributing 10 percent of the weekly profits to the Defense and Interior Ministries. They were the Defense Minister, Col. Gen. Victor Stanculescu, who has since then been named Industries Minister, and Interior Minister Doru Viorel Ursu. Their gratitude was not repudiated by the Prime Minister.

[From the New York Times, July 3, 1991]

ANTI-SEMITIC TAUNT AT WIESEL TALK IN ROMANIA

(By Henry Kamm)

IASI, Romania, July 2—An anti-Semitic incident marred the commemoration today of the program staged here by the Romanian Army and police that took the lives of about 8,000 Jews half a century ago.

A middle-aged, well-dressed woman provoked pandemonium in the packed Municipal Theater by repeatedly shouting "Lies!" and interrupting a speech in which Elie Wiesel, the Nobel Prize-winning author, eulogized the victims and delivered a warning about renascent anti-semitism.

As he tried to speak, the woman rose from a front row seat to shout: "It's a lie! The Jews didn't die. We won't allow Romanians to be insulted by foreigners in their own country."

Shouts against the woman rose from throughout the turn-of-the-century hall, whose audience included many of the 900 Jews remaining in the city that before World War II counted 40,000 Jews in a population of 90,000. But in the row behind her and from the back of the auditorium, sympathizers asked for her to be given the floor.

While Chief Rabbi Moses Rosen, who presided, went white with anger and in a trembling voice, denounced her as a "fascist provocateur," plainclothesmen hustled the woman away. The police did not identify her.

Mr. Wiesel continued, deploring the action of the Chamber of Deputies last April, which rose in a minute of silent tribute to the memory of Marshal Ion Antonescu, the dictator executed as a war criminal who allied Romania with Germany and ordered the deportation and killing of the Jews.

Mayor Emil Alexandrescu, a member of the governing National Salvation Front, followed Mr. Wiesel out of the hall apologizing and saying that the heckler did not represent the "real sentiments of Romanians."

Mr. Wiesel, as well as Richard Schifter, Assistant Secretary of State for Humanitarian Affairs, used the two days in Romania commemorating the 400,000 Romanian Jews who were killed by Germans, Romanians and Hungarians in World War II, to meet with President Ion Iliescu and Prime Minister Petre Roman. They expressed the concern of the United States and of American Jews over the existence of rabid nationalistic and anti-Semitic writing in parts of the press and the Government's failure to act. Today, there are believed to be fewer than 20,000 Jews in Romania.

Both men met separately with each of the Romanian leaders in Bucharest. Mr. Roman assured Mr. Wiesel of the Government's intention to seek punishment for newspapers that violate Romania's laws against preaching hatred of ethnic groups. Mr. Iliescu said the most offensive weeklies had agreed to stop publication of anti-Semitic articles. He did not specify how such assurances were obtained.

The Prime Minister expressed disappointment that Romanian intellectuals had not reacted vigorously against the wave on anti-Semitism. He agreed with an account by Mr. Wiesel of meetings with writers and other intellectuals who told the American that they lived in fear of militant, anti-intellectual forces that intimidate them with threats and character assassination.

Asked to identify the sources of the generalized atmosphere of fear, Prime Minister Roman replied that many Romanians were afraid of what may be a "network" of former members of the secret police, as well as of the Communist bureaucracy.

The campaign to rid Romania of Jews went into high gear with the outbreak of war against the Soviet Union on June 22, 1941. The Iasi pogrom gave the starting signal. In this city, near the Soviet border, Jewish men were accused of having signaled from the ground to Soviet warplanes. They were rounded up in the courtyard of police headquarters, and machine guns opened fire. Many who survived were bayoneted to death.

Thousands were jammed into freight cars, which for several days traveled back and forth without water or food in intense summer heat. When the cars stopped occasionally, those who had died were pushed out. Many went mad. After several days, most of those still alive were shot.

The rest of the Jewish population, was driven into labor camps from which few returned.

[The Washington Post, July 5, 1991]

JEWS MEETING IN ROMANIA CITE NEW ANTISEMITISM

CHIEF RABBI DENOUNCES NATIONALIST PRESS

(By Marce Champion)

BUCHAREST, ROMANIA—World Jewish leaders, here to commemorate the 400,000 Romanian Jews killed during World War II, warned this week that they see increased antisemitism in this country.

The 50th anniversary of the Holocaust in Romania, whose rulers sided with Nazi Germany for most of the war, has drawn Jewish leaders from the United States, Israel and Britain. But what might have been the ritual unveiling of a monument to the dead was given new urgency because of recent antisemitic articles in nationalist newspapers here.

"After reading these articles, I must tell you that I was shocked," said Elie Wiesel, the Nobel Peace Prize-winning chronicler of the Holocaust. Wiesel was born in Romania and deported to the Nazis' Auschwitz camp in Poland at age 15. He said the articles were as inflammatory as fascist pamphlets of the late 1930s and early 1940s.

One article, by a former submarine commander, Capt. Nicolae Radu, claims that Israel plans to turn Romania into a Jewish colony; that Jews are plotting with the International Monetary Fund to turn Romanians into "street sweepers"; that Jews control the Romanian government, and that they brought communism to Romania.

Wiesel warned Romania's government that its efforts to gain international acceptance and aid will be unsuccessful "until these antisemites are shamed into silence."

The articles and the lack of response to them in the rest of the press led Romania's chief rabbi, Moses Rosen, to threaten last week to build an "air bridge" to Tel Aviv to evacuate the 18,000 Jews living in Romania, which had a prewar Jewish population of 800,000. In the ceremonies this week, he attacked efforts to rehabilitate Romania's wartime pro-Nazi dictator, Ion Antonescu, in which three cities have renamed streets after him. "Now we must walk on streets named after our killer!" Rosen cried.

Although Rosen has received threats since denouncing the antisemitic articles, there have been no reports of hate crimes against Jews here.

Romania's nationalist newspapers have published articles expressing nostalgia for the late Communist dictator Nicolae Ceausescu and attacking Hungarians, Jews and Gypsies. Romania has almost 2 million ethnic Hungarian citizens and nearly as many Gypsies. In five villages, Gypsy settlements have been burned, but the Gypsies are viewed as too poorly organized to fight back and have few supporters abroad.

Carved into the walls of the Holocaust memorial unveiled here Monday were dates and figures referring to pogroms, deportations and massacres that Rosen has published in a new book. They suggest that Antonescu ordered the deaths of more than 250,000 Jews.

During the Ceausescu regime, Romanians were taught that most Romanian Jews were killed by Hungarian troops in Transylvania while Antonescu saved $400,000 by refusing to hand them over to Nazi Germany.

[From the New York Times, July 5, 1991]

ROMANIA'S DIRTY SECRETS

Romania once had a flourishing community of 750,000 Jews. Only 18,000 remain. Hundreds of thousands were slaughtered during World War II; others fled Communist rule

afterward. For nearly 50 years, Communist governments concealed the horrifying facts about Romanian complicity in Nazi massacres. Yet even now, as the truth struggles to the surface, those who speak it are vilified and Romania's ex-Communist leaders seen immobilized, even as a gutter press spews new hatred against all minorities—Jews, ethnic Hungarians and gypsies.

In what should have been a redemptive gesture, Romania dedicated a memorial in Bucharest this week to the 400,000 Jews who fell victim to "German, Romanian and Hungarian Fascists." Sadly, this was followed by the ugly taunting of Elie Wiesel, a Nobel laureate who survived the pogroms in Transylvania. And it was preceded by the Romanian Parliament's rehabilitation of Ion Antonescu, ally of the Nazis, who initiated the mass killings.

Executed as a war criminal in 1946, Marshal Antonescu is now acclaimed as a martyr whose death was ordered by Soviet victors. Martyr? As leader of the Iron Guard dictatorship in 1940, Antonescu instituted anti-Jewish laws more severe than those in Germany. When Romania entered the war in 1941, his regime embarked upon a program of massacres and deportations of unparalleled ferocity. As Hannah Arendt writes in "Eichmann in Jerusalem":

Deportation Romanian style consisted of herding 5,000 people into freight cars and letting them die there of suffocation while the train traveled through the countryside without plan or aim for days on end; a favorite follow-up to these killings was to expose the corpses in Jewish butcher shops.

The savagery moderated as the military tide turned against Hitler. Instead of killing Jews, the Antonescu regime began selling them. Miss Arendt writes: "Romanians became the most fervent advocates of Jewish emigration—at $1,300 a head. This is how Romania became one of the few outlets for emigration to Palestine during the war." Later, in the Ceausescu era, the same blood trade resumed, with an additional twist: the commerce was extended to ethnic Germans.

The Ceausescus are gone but these dirty secrets are scarcely known to the Romanian people. Their ex-Communist leaders only murmur disapproval as Antonescu's memory is feted; journalists who once touted Ceausescu swell a chauvinist clamor for an ethnically "pure" Romania. Only the truth can liberate Romania from its totalitarian past. The tesk of telling it has scarcely begun.●

SENATE RESOLUTION 153—EXPRESSING SUPPORT FOR DEMOCRATIZATION IN YUGOSLAVIA

Mr. DOLE (for himself, Mr. METZENBAUM, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. NICKLES, and Mr. D'AMATO) submitted the following resolution; which was considered and agreed to:

S. RES. 153

Whereas in 1990 the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia elected non-communist governments committed to democracy and free market economics;

Whereas in 1990 the republics of Montenegro and Serbia elected communist governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia and thereby denied representation to the collective presidency of Yugoslavia;

Whereas the leaders of Slovenia and Croatia and the other Yugoslav republics have been engaged in negotiations on the future structure of Yugoslavia since October, 1990;

Whereas these negotiations have not included representatives from the provinces of Kopsova and Vojvodina;

Whereas on June 25, 1991, the republics of Croatia and Slovenia declared their independence;

Whereas the Yugoslav Army responded to these declarations by mobilizing and deploying tanks and troops in Slovenia, Croatia and Kosova;

Whereas the unwillingness of the Yugoslav central government and the military authorities to negotiate with the democratically elected leadership of Slovenia and Croatia has led to unnecessary bloodshed;

Whereas there have been numerous reports of deaths of civilians, policemen, militiamen and soldiers, as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia, and as a result of repression against the Albanian population in Kosova: Now, therefore, be it

Resolved, That—

(1) The Senate supports the principles of democratization and self-determination for the six republics and two provinces of Yugoslavia;

(2) The Senate urges that the United States use its leadership to ensure that concerns regarding the restoration of political stability in Yugoslavia will not preclude the chief objective of promoting and securing democracy and self-determination.

(3) The Senate condemns the use of force by the Yugoslav authorities against civilians;

(4) The Senate urges the peaceful resolution of political differences in Yugoslavia and the inclusion of Kosova and Vojvodina in that process;

(5) The Senate calls on the Yugoslav Army to refrain from obstructing the functioning of the democratic governments of Slovenia and Croatia and calls on the government of Serbia to cease from using force against the Albanian population of Kosova;

(6) The Senate calls for free and fair elections to be held in the provinces of Kosova and Vojvodina.

(7) The Senate urges the President to explore means of increasing direct diplomatic, political and economic ties with the democratic governments of the republics of Croatia and Slovenia;

(8) The Senate urges the State Department to expand direct contacts with the leaders of the democratic opposition of Kosova and Vojvodina;

(9) The Senate recommends that the administration shape its foreign assistance, trade and technical assistance programs to support the republics of Croatia and Slovenia and the other democratic republics in Yugoslavia, and to encourage democracy in the rest of Yugoslavia.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICES, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATION ACT, FISCAL YEAR 1992

DECONCINI (AND OTHERS) AMENDMENT NO. 732

Mr. DECONCINI (for himself, Mr. DOMENICI, Mr. JOHNSTON, and Mr. BOND) proposed an amendment to the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

At the end of the committee amendment, insert the following:

": *Provided*, That the last sentence of section 2401(c) of title 39, United States Code, is amended to read as follows:

"In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall (i) include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume; and (ii) calculate the sums requested in respect of mail under former sections 4452(b) and 4452(c) of this title as though all such mail consisted of letter shaped pieces, as such pieces are defined in the then effective classification and rate schedules."

": *Provided further*, That section 3626(a)(2) of title 39, United States Code, is amended to read as follows:

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be; *Provided, however*, That with respect to mail under former sections 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules."

": *Provided further*, That section 3626(i)(2) is amended by adding at the beginning of the first sentence thereof the phrase, "Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title,"

": *Provided further*, That second-class in-county preferred mail shall continue at the rates in effect on the date of enactment of this Act during fiscal year 1992: *Provided further*, That third-class non-profit mail rates in effect on the date of enactment of this Act, with the exception of pieces other than letter shape, shall not increase during fiscal year 1992 as a result of this appropriation and the United States Postal Service Board of Governors are instructed to reconcile any fiscal year 1992 funding shortfall as a result of this appropriation against future year appropriations requests: *Provided further*, That

notwithstanding the provisions of sections 3624(c) and 3641(a) of title 39, United States Code, the Postal Service, in any proceeding it initiates under section 3622(a) of title 39, United States Code, for the sole purpose of increasing rates for third-class nonprofit mail other than letter shape, may place temporary rate changes into effect, as provided in the last sentence of section 3641(a) of title 39, upon such date as it may determine but in no case, less than 20 days following the filing of its request with the Postal Rate Commission."

SMITH AMENDMENT NO. 733

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 2622, supra, as follows:

At the appropriate place, add the following:

"No funds appropriated pursuant to the provisions of this Act may be used for the purpose of authorizing or enforcing any agreement under section 5517 of title 5, United States Code, with respect to any employee of the United States with a regular place of employment at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire."

HELMS (AND OTHERS) AMENDMENT NO. 734

Mr. HELMS (for himself, Mr. THURMOND, and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the end of the committee amendment on page 59, line 8, add the following: ", hire of passenger motor vehicles: $3,468,000; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General."

Title 18, United States Code, is amended by adding at the appropriate place the following new section:

SEC. . DELIBERATE TRANSMISSION OF THE AIDS VIRUS

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than $10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'treatment' means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure.".

GORTON AMENDMENT NO. 735

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill H.R. 2622, supra, as follows:

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the United States Postal Service during fiscal year 1992 by this or any other act, nor any postal revenues available during such fiscal year, may be used by the United States Postal Service to execute or operate any contract for a major expansion of its current dedicated year-round national air networks for the purpose of transporting priority mail, except in an emergency or temporary interruption, until the Postal Service provides, 180 days in advance of the proposed date of such expansion, a complete report to the Congress of its plan, including its impact on priority mail service, first class mail, and private industry. Additionally, the Postal Service shall report to Congress on a quarterly basis of any incremental expansion of the dedicated air network for priority mail."

MITCHELL AMENDMENT NO. 736

Mr. DECONCINI (for Mr. MITCHELL) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 17, line 17, before the period, insert the following: ": *Provided further*, That fiscal year 1992 funds shall be available for any Presidential protection assistance reimbursements claimed in fiscal year 1991."

HARKIN AMENDMENT NO. 737

Mr. DECONCINI (for Mr. HARKIN) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 55, between lines 6 and 7, add the following new section:

SEC. 113. Notwithstanding any other provision of law, the General Services Administration shall enter into an agreement with the City of Des Moines, Iowa to pay expenses for one half of the operation, maintenance and repair of each skywalk bridge spanning city streets or alleys and connecting to the Federal Building at 210 Walnut Street in Des Moines, Iowa after the construction of each such skywalk and each year thereafter.

MOYNIHAN AMENDMENT NO. 738

Mr. DECONCINI (for Mr. MOYNIHAN) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 36, between lines 12 and 13, add the following:

New York:

Brooklyn, U.S. Courthouse, $10,000,000

MILKULSKI AMENDMENT NO. 739

Mr. DECONCINI (for Ms. MIKULSKI) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 78 of the bill, strike lines 5 through 11 and insert in lieu thereof, the following:

"(c)(1) Any individual referred to in subsection (b) who, within five years after the date of enactment of this Act, submits an application for employment in a position of employment in a department or agency of the Federal Government for which the individual is qualified shall be given preference over similarly qualified applicants for the position."

ROBB AMENDMENT NO. 740

Mr. DECONCINI (for Mr. ROBB) proposed an amendment to the bill H.R. 2622, supra, as follows:

Insert at the appropriate place in the bill:

"The U.S. Postal Service and the General Services Administration shall submit a report, by March 1, 1992, to the Committees on Appropriations of the U.S. House of Representatives and the United States Senate on the disposition of the U.S. Postal facility located in Harrisonburg, Virginia. Such report shall provide information on the cost of acquiring the facility, if the Postal Service decides to sell it, and the projected costs of any necessary renovation."

DECONCINI AMENDMENT NO. 741

Mr. DECONCINI proposed an amendment to the bill H.R. 2622, supra; as follows:

On page 7, line 9, strike the semi-colon.

On page 7, line 9, insert "for" after "and".

On page 14, line 5, strike "the".

On page 14, line 6, strike "the".

On page 15, line 10, insert a comma after "modernization".

On page 15, line 22, insert "the" after "upon".

On page 17, line 2, delete the comma.

On page 17, line 9, strike "to" and insert in lieu thereof "shall".

On page 24, line 25, strike the word "materials" after the word "to" and insert in lieu thereof "minerals".

On page 26, line 19, insert a comma after "rulings".

On page 30, strike "Commerce, State and Justice Departments" and insert in lieu thereof "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies".

On page 30, line 14, insert ", to remain available until expended" after "activities".

On page 31, line 16, insert a comma after "amounts".

On page 38, line 6, after "$569,251,000", strike "1".

On page 43, line 1, insert a comma after "Georgia".

On page 43, line 2, insert a comma after "Georgia" and after "Kansas".

On page 43, line 3, insert a comma after "Maine".

On page 43, line 6, insert a comma after "Nevada".

On page 43, line 8, insert a comma after "Carolina".

On page 43, line 9, insert a comma after "Tennessee".

On page 52, line 24, beginning with the word "The", strike all down through and including line 18 on page 53.

On page 58, line 16, strike "moneys" and insert in lieu thereof "funds".

On page 59, line 9, strike "$3,468,000" and insert in lieu thereof "$4,018,000".

On page 59, line 10, line type "$6,375,000" and insert immediately thereafter "$5,825,000" in italics.

On page 60, line 21, strike "Federal".

On page 60, line 23, strike "10,000" and insert in lieu thereof "10000".

On page 73, line 2, insert a comma after "Act".

On page 73, line 3, strike "the" after "for".

On page 76, line 12, strike the word "filing" and insert in lieu thereof "filling".

On page 76, line 23, strike "Act, or by any Act appropriating funds" and insert in lieu thereof "or any other Act".

On page 76, line 24, strike "that is".

On page 76, line 25, strike "may,".

On page 77, line 2, insert "may" after "1991,".

On page 77, line 8, strike "Parkerburg" and insert in lieu thereof, "Parkersburg".

On page 77, line 16, strike the accents on the word "resume".

On page 79, line 1, strike "fees" and insert in lieu thereof "fee".

On page 82, line 8, insert "not" after "may".

On page 82, line 9, strike "not".

On page 87, line 19, strike the first "Act".

On page 95, line 18, strike "Act".

On page 95, line 22, strike "in" and insert in lieu thereof "by".

On page 95, line 23, insert "to" after "and".

DECONCINI (AND DOMENICI) AMENDMENT NO. 742

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra; an follows:

On page 32, at the beginning of line 10, insert the following:

"For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services act of 1949, as amended (40 U.S.C. 490(f), $288,000,000 to be deposited into said Fund."

On page 32, line 10, after the word "into", strike "the" and insert in lieu thereof, "said"

On page 32, beginning with line 11, strike down to and including the comma on line 13.

On page 33, line 10, strike "$4,027,836,276" and insert in lieu thereof, $4,315,836,276"

On page 44, line 11, strike "$4,027,836,276" and insert in lieu thereof, "$4,315,036,276"

On page 20, line 7, after the word "Provided" and before the comma, insert "further"

DECONCINI (AND DOMENICI) AMENDMENT NO. 743

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 6, line 16, after the semi-colon, insert the following: "for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty;"

On page 16, line 14, after the semi-colon, insert the following: "for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty;"

On page 18, line 19, insert the following after the word "countries" and before the semi-colon: "without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year"

On page 30, line 4, after the word "Service" insert the following: "for the hiring, equipping and training of an additional 32 full-time equivalent special agents and 22 full-time equivalent support and administrative positions"

KASTEN AMENDMENT NO. 744

Mr. DECONCINI (for Mr. KASTEN) proposed an amendment to the bill H.R. 2622, supra, as follows:

The General Accounting Office shall conduct a study of the manner in which the Internal Revenue Service's small defined benefit plan actuarial audit program is being conducted. Further, the General Accounting Office shall report to the Congress within 45 days on the results thereof.

GORTON AND MIKULSKI AMENDMENT NO. 745

Mr. DECONCINI (for Mr. GORTON, for himself and Ms. MIKULSKI) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the United States Postal Service during fiscal year 1992 by this or any other act, nor any postal revenues available during such fiscal year, may be used by the United States Postal Service to execute or operate any contract for a major expansion of its current dedicated year-round national air networks for the purpose of transporting priority mail, except in an emergency or temporary service interruption, until the Postal Service provides, 180 days in advance of the proposed date of such expansion, a complete report to the Congress of its plan, including its impact on priority mail service, first class mail, and private industry. Additionally, the Postal Service shall report to Congress on a quarterly basis of any incremental expansion of the dedicated air network for priority mail."

SPECTER (AND KENNEDY) AMENDMENT NO. 746

Mr. MITCHELL (for Mr. SPECTER, for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1241, supra, as follows:

On page 86, strike line 3 and all that follows through page 114, line 10, and insert the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liasions, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaurate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program" approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agree-

ments entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the casse of graudate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provisions set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties;

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participants must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing gradute study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction to the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1)(E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the ap-

plicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) a participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 185. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SECTION 821. SHORT TITLE.

This Subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Subtitle".

SEC. 822. DEFINITIONS.

As used in this Subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this Subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this Subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE—The non-Federal share of the cost of scholarships and student employment provided under this Subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this Subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this Subtitle and shall, in consultation with the Assistant Secretary of Postsecondary Education, issue rules to implement this Subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this Subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this Subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

SUBTITLE C—REPORTS

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

SPECTER (AND KENNEDY) AMENDMENT NO. 747

Mr. MITCHELL (for Mr. SPECTER, for himself and Mr. KENNEDY) proposed an amendment to amendment No. 746 proposed by Mr. SPECTER (and Mr. KENNEDY) to the bill S. 1241, supra, as follows:

(1) On page 6, line 12, replace "$10,000" with "$7,500"; on line 18, replace "$13,333" with "$10,000"; on line 21, replace "$40,000 with $30,000".

(2) On page 7, line 198, replace "$10,000" with "$7,500"; on line 25, replace "$13,333" with "$10,000"; on Page 8, line 3, replace "$40,000" with "$30,000".

(3) On page 8, line 6, strike the period at the end of the sentence and insert the following:

", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.".

(4) On page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On page 14, strike lines 17–20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection".

(6) On page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.".

(7) After page 19, line 19, add the following new paragraph (d):

"(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.".

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Thursday, July 18, 1991, beginning at 10 a.m., in 485 Russell Senate Office Building on S. 291, San Carlos Apache water rights; S. 1350, Zuni River Watershed Act of 1991; S. 668, consolidated environmental grants; S. 362, Mowa Band of Choctaw Indians Recognition Act; S. 45, Jena Band of Choctaw Indians Recognition Act; and S. 374, Aroostook Band of Micmacs Settlement Act; to be followed immediately by a hearing on S. 1287, Tribal Self-Governance Demonstration Project Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a joint oversight hearing with the Senate Committee on Labor and Human Resources, Subcommittee on Employment and Productivity, on July 25, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building on employment on Indian reservations.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 25, 1991, beginning at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on several bills pending before the subcommittee. The bills are:

S. 621/H.R. 543, to establish the Manzanar National Historic Site in the State of California, and for other purposes;

S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area, California;

S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes;

S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history; and

H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224–9863.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on August 1, 1991, beginning at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on a measure currently pending before the subcommittee. The bill is: S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and Lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such land, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica

Rosenberg or Tom Williams of the subcommittee staff at (202) 224-7933.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 23, 1991, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two measures pending before the subcommittee. The bills are:

S. 140, to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; and

S. 927, to provide for a transfer of lands between the U.S. Forest Service and Eagle and Pitkin Counties in Colorado.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 3264 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica Rosenberg of the subcommittee staff at (202) 224-7933.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 1187, legislation to amend the Stock Raising Homestead Act, and S. 1179, the Geologic Mapping Act of 1991.

The hearing is scheduled for Tuesday, July 30, 1991, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Lisa Vehmas.

For further information, please contact Lisa Vehmas of the committee staff at 202/224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 2 p.m., to hold a hearing on the nomination of Fernando J. Gaitan, Jr., to be U.S. district judge for the western district of Missouri, Clyde H. Hamilton, to be U.S. circuit judge for the fourth circuit and Morton A. Brody, to be U.S. district judge for the district of Maine.

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

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 10 a.m., to hold a hearing on the reauthorization of the Refugee Act resettlement provisions.

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

SUBCOMMITTEE ON GENERAL SERVICES, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on General Services, Federalism and the District of Columbia of the Governmental Affairs Committee be authorized to meet on Thursday, July 11, at 10:00 a.m., for a hearing on the subject: Meeting the District's financial challenge.

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

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 11, 1991 at 9:00 a.m., in executive session, for markup of the Department of Defense authorization bill for fiscal years 1992-1993.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, July 11, 1991 at 10:00 a.m., to conduct a hearing on legislative proposals to ensure the safety and soundness of Government-sponsored enterprises.

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 9:30 a.m. for a joint hearing with the Subcommittee on Labor Management of the House Committee on Education and Labor, on "Library and Information Services for Literacy, Productivity and Democracy."

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 11, at 2:00 p.m. to receive a closed briefing on Cyprus negotiations.

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

SUBCOMMITTEE ON SUPERFUND, OCEAN, AND WATER PROTECTION

Mr. FORD. 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, July 11, beginning at 10:00 a.m., to conduct a hearing on S. 1278, a bill to amend the National Environmental Policy Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 11, at 10 a.m., to hold a hearing on the Conventional Forces in Europe [CFE] Treaty. Secretary of State Baker will be our witness.

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

SUBCOMMITTEE ON MEDICARE AND LONGTERM CARE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on July 11, 1991, at 2 p.m. to hold a hearing on Medicare hospital capital payment policy.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 2:45 p.m. to hold a closed meeting on intelligence matters.

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

ADDITIONAL STATEMENTS

HARRY AND LARRY JONES

• Mr. McCONNELL. Mr. President, I rise today to commend two business-

men because of their contributions to the Louisville community.

We have all been scolded by mother or father because we bought that trendy pair of Levis, or a sporty pair of black and white saddle shoes. Mother accused you of trying to "keep up with the Joneses." In this instance, though, the Joneses are a fine example; and their story, most will agree, is inspiring.

Harry and Larry Jones were among the obscure partners who joined former Gov. John Y. Brown, Jr., when he attempted to rescue Louisville's old Durkee Foods plant and save jobs. But by 1982, the Jones brothers had begun quietly building a collection of their own companies, companies they expect will do $220 million in business this year. The base of these companies is Jones Plastic and Engineering Co., among the largest independent injection molders in the country.

The Joneses are also still a part of the venture Brown promoted, which started as Louisville Edible Oil Products, Inc., and now inclues three companies: Golden Foods, Golden Brands, and kentuckiana Tank Wash. The companies refine, package, and transport vegetable oils, and sanitize oil tanks. Business for Harry, Larry, and their father, Earl C. Jones, also includes their status as the largest investors in the Old Kentucky Real Estate Investment Trust.

What makes this story even more unique is the fact that Larry and Harry are twins, and do everything in tandem. They took the same courses in college, have the same handicap in golf, and share the title of executive vice president at Jones Plastics.

Harry and Larry went to New York and New England after graduating from the University of Kentucky. Once they noticed that there were no plastic molders but that there were plastic users in Kentucky, they spent several vacations looking for a plastic product they could make and found one, whiskey caps.

The Joneses expanded their product line and "specialize in everything that is too difficult for the competitors," Larry Jones said. Plastics technology magazine's April issue included the company in a list of World Class Injection Molders, calling it equal to "the best in the world in terms of quality, technology, productivity, and service."

Harry Jones said the brothers expect vegetable oils to become more important in transportation and industry as environmentalists call for replacing petroleum products.

The Joneses already anticipate expansion with the demand.

Mr. President, I rise today to insert this article in the RECORD, to recognize two outstanding men in the business sector in hope that their story may serve as an example to aspiring individuals in our country.

The article follows:

[From the Louisville Courier-Journal, May 19, 1991]

TWINS MOLD BUSINESS EMPIRE OUT OF PLASTIC

(By Joe Ward)

To some people, Harry and Larry Jones were among the more obscure partners when then-Gov. John Y. Brown Jr. mounted his much-publicized 1982 effort to rescue Louisville's old Durkee Foods plant and save jobs.

Brown himself—who ultimately decided against joining the venture, to avoid a conflict of interest—was not only governor, but also well known as the man who turned Kentucky Fried Chicken into a national chain.

He had interested such other friends as the late Frank Metts—who had high visibility from a moderately controversial hitch as state secretary of transportation—and Paul Hornung, the "Golden Boy" of Green Bay Packer professional football fame.

But the Joneses weren't totally unknown, at least to middle-aged Kentuckians and perhaps sports trivialists.

They had seen limelight as "1A" and "1B," Paul "Bear" Bryant's one-two punch at left and right halfback on the University of Kentucky football team that beat Oklahoma in the Sugar Bowl, in 1951.

And by 1982 they had been for a number of years quietly building, with partners, a collection of companies that they expect to do $220 million worth of business this year.

Their base is Jones Plastic and Engineering Co., which has its headquarters and two plants in Jeffersontown's Bluegrass Industrial Park, another plant in Leitchfield, Ky., and a fourth plant in Frankfort. The company is among the 10 largest independent injection molders in the country.

The Joneses still are part of the venture Brown promoted, which started out as Louisville Edible Oil Products Inc., and now includes three companies—Golden Foods, Golden Brands and Kentuckiana Tank Wash. They refine, package and transport vegetable oils, and sanitize oil tanks.

The Joneses also joined with Metts, Hornung and other investors in Schmutz International B.V., which makes printing equipment, foil slitters and machine tools. It has its operations in Holland.

With their father, Earl C. Jones, Harry and Larry Jones are the largest investors in the Old Kentucky Real Estate Investment Trust, where Hornung, the Metts estate and others also are partners. The trust owns the old Levy Brothers building at Third and Market streets, the old Sears building on Shelbyville Road, and some apartment buildings and other properties.

All the companies are profitable, the Joneses say, though they won't release figures. The plastics firm is "very profitable," Harry Jones said. Schmutz has been affected by the recession but is "doing O.K.," and the real estate firm is "holding its own."

The Joneses—Who are called Harry and Larry by virtually everyone who deals with them, though their proper names are Dennis Harry and Robert Larry—are identical twins, now 60.

They have done virtually everything in tandem.

They took the same courses in college and the same job out of college. Each retains the title of executive vice president at Jones Plastic because neither wants to have a title higher than the other.

"It's almost freaky," said Hornung, who played baseball with them when they all were boys. Hornung noted that Harry and Larry have about the same handicap in golf—"a 7 or 8"—and they even have three sons apiece, almost exactly parallel in age. "One would have a boy, and the other would have a boy." Hornung said, "It's the damnedest thing I ever saw."

Earl Jones, father of the twins, said it's always been that way. Though they argue a lot, he said, his sons "usually end up with the same thoughts." You can even "start a conversation with one and pick it up with the other, and just go on with it," he said.

The elder Jones, 80, a retired businessman, said his boys "were always kids anybody would have been proud of." They respected their elders and took care of one another, and they were very ambitious, working hard at their paper routes and at athletics.

When they were very young, Earl Jones recalled, Harry and Larry often stayed with maternal grandmother, the late Leola Allen—"a good, honest, religious woman" who "taught them the basics, principles most real young kids don't get."

They shone in athletics in junior high, played football three years for coach Butch Charmoli at DuPont Manual High School, and won athletic scholarships to the University of Kentucky. They lettered three years there, too—in football baseball and track—and did well academically.

At one point, Earl Jones said, their pursuit of civil engineering degrees conflicted briefly with football. They asked permission to be late for practice one semester because of an afternoon lab class, their father said, but Bryant told them they probably wouldn't make the team if they weren't on time.

So they got business degrees instead. Then they stayed on a couple of extra years and got engineering degrees, too.

"We knew it wouldn't take much longer, and it was free." Larry Jones said. Bryant had arranged for their scholarships to continue, and they helped both him and his successor, Blanton Collier, with coaching chores when their playing days were over.

During the period Larry almost succeeded in recruiting Hornung, who was four years younger, for UK football. "But he was Catholic," Larry said, and couldn't resist the call from Notre Dame.

They met John Y. Brown at UK, when he was in law school. "We played a lot of poker together, at the football house," Brown said. "You can tell a lot about somebody by playing poker with them."

Brown said he wanted to go into business with them even then. "They had goals and were highly disciplined, and were well-prepared for an opportunity when it came." he said.

Harry and Larry went to Phillips Chemical Co., where they worked for three years, ultimately in New York and New England, selling ingredients for plastics manufacturing. One thing they noticed was that they weren't selling any in Kentucky. "We found out it was virgin territory down here—no molders but some users," Harry Jones said.

They spent several vacations in Kentucky looking for a plastic product they could make, and found one—whiskey caps.

Big glass companies such as Ball Brothers and Owens Illinois were selling caps to large and small distillers in those days, Larry Jones said, and he and his brother were able to pick off such small customers as Jim Beam and Heaven Hill.

"We were right here, so we could beat the big guys on freight," he said. "Also, we weren't big enough to mold a minimum order for Seagrams, so we were too small to hurt anybody."

Plus, he said, it was 1961 and their names were still recognizable in Kentucky. "A lot of people wanted to help us."

They raised $55,000 by bringing in their father, along with A. A. Nelson—Larry's father-in-law—and Dr. Ben Reid, a family friend. They borrowed another $50,000 from Liberty National Bank.

At first there were four employees—Harry and his wife, Nancy, and Larry and his wife, Charlotte, nicknamed "Skeet." "We had a playpen at the office for the six boys," Larry said.

"They worked like dogs," Earl Jones said.

They expanded their product line to include fishing tackle boxes, tool boxes and seat-belt housings, grew out of their original site into the industrial park, and then out of there.

Early on they sold 40 percent of the company's stock to Stratton & Terstegge, a hardware company, for $80,000, which enabled them to buy a machine that doubled the business. They bought the stock back later for "$1.5 million or $1.6 million." Larry Jones said, Harry and Larry Jones now own about 70 percent of the stock.

They expanded out of the main plant and across the street in 1980 to start Rev-A-Shelf, a wholly owned subsidiary that assembles kitchen cabinets and accessories. They opened the Leitchfield plant in 1987, and bought the Frankfort operation from General Electric Co. last fall.

Four of the six young Joneses are now vice presidents in the company. One of the others operates a nursery company, and the other works for a company in Akron, Ohio.

The Louisville, Leitchfield and Frankfort plants all do custom injection molding work, about 40 percent of it for General Electric's Appliance Park, and much of it in molds designed by Jones engineers. Other customers include IBM and Rubbermaid.

Larry Jones said the company shoots for the hard work, the technically difficult. "We specialize in everything that we hope is too difficult for our competitors," he said. "We want our customers to say, 'We've got to give the business to the Joneses because they're the only ones who can do it.' "

Outsiders give them credit for some success toward that goal, Plastics Technology magazine's April issue included the company in a list of "World Class Injection Molders," declaring it equal to "the best in the world in terms of quality, technology, productivity and service."

Their purchase of the GE plant in Frankfort—on terms they will not disclose—was preceded by a "value-added supplier" contract, "five to eight years long," with the appliance maker.

John Rice, GE's general manager of Material Resources Operations for Appliances, said GE has began forming such "partnerships" with its suppliers, entering longer-term agreements that relieves the suppliers of the need to beat the bushes for customers on a yearly, or more frequent, basis.

"What Jones does for GE is work hard at providing us a competitive advantage—in price, quality, delivery and technical support," he said.

Rather than giving Jones the exact parameters of a part it needs, for example, GE can just describe the need, and Jones engineers can design the part and decide how to make it, often saving on waste and time.

"In 1991 alone they've submitted ideas for cost reduction worth several million dollars," Rice said "They're an important part of our success today, and will be in the future."

The Jones companies deal with unions at their Jeffersontown plants and at Golden Foods and Golden Brands. They get along "reasonably well," Larry Jones said, though both operations have had strikes.

"I've found the Joneses fair to deal with," said Norman Hug, president of Teamsters Local 89. "Like anyone else, they want to get everything they can for their money."

Employees of the vegetable oil firms, who are represented by Firemen & Oilers Local 320, went to court over strike violence from the company side when Frank Metts was running the companies. But business representative Ron Ashton said the relationship has improved considerably. Metts died last summer.

The Joneses say their growth has come with few problems, the one significant one a brief period when chemicals were hard to get during the 1973 embargo by Arab oil producers.

They plan to keep on growing, building small plants like the 20-press Leitchfield operation in other small towns, as they need them. They hope to move into new areas—pharmaceutical plastics and new plastic compounds among them—and expect that to mean an expansion of the Frankfort plant as well.

Harry Jones said the brothers expect vegetable oils to become more important in transportation and industry for environmental reasons, replacing petroleum products, and they expect to expand with demand. Golden Foods and Golden Brands will have $100 million in sales this year, and the plastics firm, $110 million, they said.

And the Joneses say they have no retirement plans. They're healthy, they said, and their parents are healthy. The four sons who are in the business are involved in the decision making, though, and succession, when it's necessary, shouldn't be a problem, they said.•

TRIBUTE TO RODNEY CLINE CAREW

• Mr. DURENBERGER. Mr. President, on Tuesday, January 8, 1991, Rodney Cline Carew became the 22d player elected to the Baseball Hall of Fame in his first year of eligibility. His 401 votes were the most received during this round of voting and Rod Carew now joins Babe Ruth, Henry Aaron, and Ty Cobb in Cooperstown. I congratulate him on his achievements.

Although Rod finished his career as a California Angel, he spent 14 years as a Minnesota Twin. I am proud to say it will be a Twins cap he will be wearing on his Hall of Fame plaque.

Rod's pursuit began in 1964 at age 14 when Minnesota scout Herb Stein signed him to a contract to play class A ball. He was promoted to the majors three seasons later and capped off his inaugural season by being named Rookie of the Year. In addition, Rod won his first batting title and stole home a record-tying seven time during the 1969 season.

A skillful infielder at second base, Rod also was an outstanding hitter, scientifically changing his stance from pitcher to pitcher and pitch to pitch. Former manager Gene Mauch said that "nobody did what Rod did any better." If Rod Carew showed promise during his first three seasons in the big leagues, it was only a preview of things to come.

From the 1971 through 1978 seasons, Carew batted above .300 for 8 straight years, winning six batting titles. He led the league in hits three times, triples twice, and in runs once. In his best year, 1977, Carew hit .388, had 14 home runs, 100 RBI's, 239 hits, and 128 runs, and thus awarded league MVP honors for his efforts.

Carew finished his 19-year career in 1985 with a .328 lifetime batting average. He batted .300 or better in 15 consecutive seasons, was named to 18 All-Star teams, and stole 353 bases. Rod is 1 of only 16 players with 3,000 or more hits and, ironically enough, Rod collected his 3,000th hit in 1985 off Frank Viola who was then a Twins pitcher.

During the recent All-Star game in Toronto, Rod was named Honorary Captain of the American League squad and baseball fans were once again treated to the sight of Rod Carew in a baseball uniform.

On July 21, Rod, Gaylord Perry, and Ferguson Jenkins will be formally inducted into the Hall of Fame in Cooperstown, NY.

Mr. President, again I congratulate these men on their outstanding accomplishments and for the fine examples which they have provided for generations to come.•

THE COMMERCIAL BANKING INDUSTRY

• Mr. McCAIN. Mr. President, I would like to take this opportunity to bring attention to a serious problem facing our Nation today. It is the financial condition of our commercial banking industry.

Many Arizonans have contacted me about the health of our commercial banks. Specifically, they wonder if we are heading toward another S&L-type bailout for the commercial banking industry. I must tell them that I, too, am seriously concerned.

The situation appears to be worsening. In the past 3 years, nearly 600 banks have failed at a cost of $15.7 billion. The Federal Deposit Insurance Corporation [FDIC] estimates that as many as 230 banks could fail in the next 2 years.

There have also been many reports, including one from the General Accounting Office [GAO], which questions the present solvency of the Bank Insurance Fund [BIF] and its ability to meet future obligations.

Furthermore, the conditions present in the commercial banking industry seem to be similar to those conditions that have required a massive and ongoing bailout of the savings and loan industry.

I am aware that commercial banks are better capitalized than S&L's were;

that commercial banks are not as exposed to junk bond losses; and that commercial banks are subjected to more rigorous regulation and supervision.

Notwithstanding these differences, it appears that mounting commercial bank failures may deplete the BIF, thus prompting another taxpayer-financed bailout.

Mr. President, I think our present situation can be aptly illustrated by a poem by Robert Frost, "The Road Not Taken." It goes like this:

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by
And that has made all the difference.

The history of the savings and loan debacle encompasses many Congresses.

Too often, Congress has gotten lost in the woods, and taken the road more traveled. This road is the road to a taxpayer bailout. This is the road we must not travel.

Mr. President, I earnestly implore my colleagues to make a difference and move soon to reform our banking laws so we can prevent another massive taxpayer-financed bailout.

By acting promptly and judiciously, somewhere ages and ages hence, future Americans will laud our foresight and reap the benefits of our diligence.•

COMMEMORATING 100TH BIRTHDAY OF THE IMMIGRATION AND NATURALIZATION SERVICE

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Immigration and Naturalization Service on its 100th birthday, July 12, 1991. The Service and its employees have a long tradition of providing assistance to the many men, women, and children who want to come to our country to begin new lives.

As a Senator from the great State of Vermont, I have a strong admiration for the dedicated INS employees working in my State. The Eastern Service Center and the INS offices located in Vermont have provided invaluable assistance to me over the years. I have turned to them countless times in the course of my service in Congress. I have found the men and women of the INS to be extremely knowledgeable and helpful to me, my staff, and the many Vermonters with immigration concerns.

I am pleased to have this opportunity to recognize the Immigration and Naturalization Service on its centennial and publicly acknowledge the exemplary service of its Vermont employees. I look forward to working with the INS for many years to come.•

TRIBUTE TO CEDARS MEMORIAL CENTER AND MEDICAL PARTNERS

• Mr. GRAHAM. Mr. President, today I commend the Cedars Medical Center and the Medical Partners organization who were recently named an Exemplary Dade Partner by the Dade County Public Schools.

Nominated by Miami Edison Senior High School, Cedars Medical Center received the award which recognizes outstanding efforts made to motivate and encourage students while promoting self-esteem particularly for those at risk of dropping out.

Developed by the Dade County public schools, Dade Partners is a program that matches schools with over 1,300 outside organizations, local businesses, individuals, and corporations.

This year, Cedars Medical Center and Dade Partners provided more than 30 separate events and activities for partner schools. These programs affect hundreds of students and address the most pressing issues in our schools today—dropout prevention, career preparation, and financial aide.

I commend Cedars Medical Center and the Medical Partners organization for their outstanding contribution to society and education.•

COMMENDING MRS. SHALLEY JONES

• Mr. GRAHAM. Mr. President, I rise today to commend an outstanding Floridian, Shalley Jones, of Miami.

Mrs. Jones is the president of the National Association of Urban Bankers and is a dedicated community activist.

Raised in South Dade, Mrs. Jones learned the hard way about the problems of low-income housing. She uses her background to help the local communities by working with various organizations including the Miami-Dade Neigborhood Housing Services, Inc., and Metro-Miami Action Plan.

In addition to her commitment to community involvement, Mrs. Jones is a wife, a mother of two, and a banker. She was the first vice president/CRA compliance officer at Chase Federal Bank in Kendall. By combining her knowledge of the banking industry with the needs of local housing, she revitalizes declining low-income neighborhoods.

Mrs. Jones graduated from the University of Miami and received a master's degree in management from Florida International University. She started a temporary job as a bank teller until she enrolled in the management program at Flagler Federal Savings & Loan Association.

Her enthusiasm and her commitment to her community have distinguished her as an outstanding individual, and she is an inspiration to all.

It is my pleasure to commend Shalley Jones and her many accomplishments.•

EXPRESSING THE SENATE'S SUPPORT FOR DEMOCRATIZATION IN YUGOSLAVIA

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 153, a resolution to express support for Yugoslavia submitted earlier today by Senators DOLE, METZENBAUM PELL, HELMS, PRESSLER, NICKLES, and D'AMATO.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 153) to express the Senate's support for democratization in Yugoslavia.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, I am pleased to cosponsor this resolution regarding Yugoslavia submitted by Senator METZENBAUM. Two weeks ago, the Senate adopted a resolution that Senator DOLE and I submitted condemning the Yugoslav Army's violent response to the declarations of independence by Croatia and Slovenia. I believe that at this juncture, it is appropriate for the Senate to speak out once again on the Yugoslav situation.

I welcome the EC-brokered accord on Yugoslavia, including the cease-fire in Slovenia, and I am thankful that it is holding. But troubled times are ahead, and it behooves us to have the foresight to develop a proactive, reasonable policy toward Yugoslavia that is true to our democratic principles. I believe that the resolution before us makes appropriate recommendations on how the administration might shape such a policy.

Last week, for the first time, the administration took a small step away from its longstanding policy of promoting both national unity and democracy in Yugoslavia. I commend the administration for taking that step because in recent months, U.S. policy had seemed to emphasize national unity over democracy. I hope that last week's statements signal a recognition that unity at all costs is not the answer for Yugoslavia.

I also hope that the administration will pay more attention to the actions of Serbia, which in large part, contributed to the current situation. Serbia's obstruction of the constitutional rotation of the Federal Presidency, its opposition to a looser federation, and repression of the Albanian population in Kosova encouraged Croatia and Slovenia to take steps to disassociate themselves from Serbia and the Yugoslav federation. The United States administration has had too little to say about Serbia's actions, and has focused mainly on Slovenian and Croatian secession. I remain concerned that United States

insistence on unity and its near silence about Serbian actions may have given the Yugoslav Army and Serbian leaders the false impression that the United States would look the other way in response to use of force against the breakaway Republics.

To avoid any further misunderstandings, I believe that the administration should state unequivocally that it will support independence for Slovenia and Croatia if Yugoslavia's renegade army does not keep its commitment to cease aggression and if Serbia does not agree to negotiations on a looser Yugoslav federation.

Finally, Mr. President, as I told Secretary Baker during a Senate Foreign Relations Committee hearing this morning, I believe that the United States should press Serbia on the issue of Kosova. In this regard, I would make particular note of the language in the resolution calling upon the Serbian Government to cease from using force against the Albanian population of Kosova and for the administration to expand contacts with the leaders of the democratic opposition of the provinces of Kosova and Vojvodina. I believe that the Senate should demonstrate its unequivocal support for democratization and self-determination in all of Yugoslavia, and accordingly, I urge that my colleagues support this measure.

Mr. DOLE. Mr. President, I understand that this resolution has been cleared on both sides. I am pleased to cosponsor this resolution with Senators METZENBAUM, PELL, HELMS, PRESSLER, and NICKLES.

Yugoslavia is undergoing a dramatic transformation—and the struggle for democracy has, to our great concern, provoked a violent reaction from the Communist hardliners that still exist and hold power in Yugoslavia.

Mr. President, a few weeks back, the United States policy response to events in Yugoslavia, such as the Croatian and Slovenian declarations of independence, was unfortunately rather murky. However, I am pleased to see that the administration has now clarified its policy in support of the democratic republics of Yugoslavia and against the use of force.

Mr. President, this resolution is an attempt to support that effort—to put the U.S. Senate squarely on the side of democracy and the principle of self-determination. With the adoption of this resolution there should be no doubt where we stand.

In addition to addressing the events of recent weeks in Slovenia and Croatia, this resolution takes note of the ongoing repression in the Province of Kosova, and calls on the hardline Government of Serbia to cease using force against the 2 million Albanians who live there.

Mr. President, the Communists have lost in Yugoslavia, but they refuse to accept this reality; they are using force in a desperate, last-ditch attempt to hold onto power and privilege. But, I am confident that the Communist hardliners will not succeed; the people of Yugoslavia want freedom and democracy and they will not give up, even if confronted by the brutal and violent tactics we first witnessed in Kosova and most recently saw in Slovenia and Croatia.

Mr. President, I urge my colleagues to approve this resolution—this vote is a vote for freedom and democracy.

Mr. METZENBAUM. Mr. President, I am happy to join the distinguished Republican leader in authoring this resolution on the situation in Yugoslavia.

The Yugoslav Central Government and central military authorities have created a crisis atmosphere. Their refusal to negotiate with the elected leadership of Slovenia, Croatia, and other Yugoslav republics led to the terrible violence suffered by Yugoslavians over the past several weeks. If the Central Government continues to reject the principles of self-determination and democracy for its constituent Republics, violence will erupt once again.

Mr. President, representatives of the European Community have brokered a cease-fire, and a framework for talks to take place over the next 3 months. But talks have actually been going on since autumn of 1990. Negotiation cannot become an end unto itself. There must be compromise from the Central Government, otherwise, the cycle of violence will errupt once again.

The United States needs to take a more vocal role in encouraging a constructive attitude from the Central Government. We must also do more to support the spirit of independence, and the courage that has welled up among Slovenes, Croatians, and other culturally independent peoples of Yugoslavia.

Mr. President, I look forward to unanimous adoption of this important resolution by the Senate. I pray for peace and progress toward democracy in Yugoslavia.

Mr. NICKLES. Mr. President, as we are all aware, just over 2 weeks ago, on June 25, Slovenia and Croatia, two of the constituent Republics of Yugoslavia, declared their independence. Both Republics have democratic Governments, elected in 1990, and had been trying for sometime to find a workable, confederal arrangement with the other four Republics. Unfortunately, both the Federal Government and the Government of the largest Republic, Serbia, remain under Communist control.

Immediately after the Slovenes and Croats declared independence, the Federal army moved in to suppress them. Sharp fighting broke out in Slovenia during the last week of June; dozens of people were killed. In a major upset, the Slovenes gave the world a stirring lesson in standing up for freedom, as the Yugoslav Army—despite a huge advantage in manpower, airpower, and armor—was defeated by Slovene citizen-soldiers. For the past few days, a shaky truce has existed between the Slovenes and the Federal Government.

Meanwhile, the level of violence has escalated in Croatia. For months now, there has been sporadic fighting between Croatian police and armed Serbian civilians, whom most observers believe are being supplied by the Communist government of the Serbian Republic. Numerous people have been killed. Unlike Slovenia, which is ethnically homogeneous, Croatia has a sizable Serbian minority. In the past, especially during World War II, there was horrendous violence between the two groups. It is widely feared that Croat/Serbian violence could erupt as a full-scale war between the two republics. In fact, there is good reason to believe that the Communist leadership of Serbia, under its dictatorial leader, Slobodan Milosevic, may be trying to provoke further violence as a means to attract nationalistic support.

The danger of interethnic violence has often been stressed in Yugoslavia. Based on the region's history, its danger is real. But awareness of that reality should not blind us to two other facts that deserve priority consideration. The first is the negative influence of Communists—in the Federal Government, in the army, and in the Serbian Government—that has so far blocked a peaceful resolution. The second is the interconnected issue of democracy, human rights, and self-determination.

First, the Communist problem. There should be no mistaking where the blame lies for the current violence. The Communist Milosevic Government has refused every attempt on the part of the Croats and Slovenes to negotiate a solution. In fact, as we remember, in mid-May, Milosevic blocked the accession of Croatia's Stipe Mesic to the chairmanship of Yugoslavia's eight-man collective presidency—effectively paralyzing a key mechanism for working out inter-Republic disputes. Blocking Mesic was a major element in convincing Croatia and Slovenia that they had no choice but to declare their independence—although even then, the Slovenes and Croats emphasized their continued willingness to talk about future confederation. Instead, they were met with tanks and helicopters, sent against them by Communists controlling the army.

Second, democracy. I would like to draw my colleagues' attention to an excellent essay by Ambassador Jeane Kirkpatrick, from the Washington Post of July 8. Ambassador Kirkpatrick reviews the policy of Western governments toward Yugoslavia, and explains why the United States must be at the forefront of the quest for freedom in

Yugoslavia, and around the world. She writes:

The reason that Americans and their government should prefer self-determination over territorial integrity as a political value is that self-determination is a part of government by consent. Government by consent is a right of persons. Territorial integrity is an attribute of states.

The principle involved in the secession of Slovenia and Croatia is self-government. * * *

It is important that the U.S. government have its priorities straight. And the only priority acceptable to American principles and interests in these cases is the priority of freedom.

In this connection, Mr. President, I want to remind my colleagues that the issue of freedom and human rights in Yugoslavia involves not only Croatia and Slovenia but the ethnic Albanians in Kosovo Province, who have been the target of massive human rights violations at the hands of Serbian Republic police. As I witnessed in Kosovo not too long ago, in the company of the distinguished Republican leader, who has taken a leading role on this issue, the Serbian police routinely use massive and brutal force against any mainfestation of Albanians national sentiment in Kosovo. These violations are well known and have been amply documented by the State Department and by such groups as Helsinki Watch and Amnesty International. A May 24, 1991, statement of administration policy sent to me by Secretary of State Baker includes a succinct review of the human rights problem in Kosovo, and I bring it to my colleagues's attention.

In closing Mr. President, I think we should all be clear on one fact: America stands for freedom, human rights, and self-determination. I think all of my colleagues join me in hoping that these principles will guide United States policy, and that the goals of Yugoslavia's peoples can be achieved peacefully. The end of Communist domination of both the Federal Government and the Serbian Government would be a major step to a peaceful and equitable outcome. The United States and other interested democratic countries should do everything possible to show our disapproval of the Federal army's violent actions, and to to put pressure on the Communist leadership.

Mr. President, I strongly support the resolution on Yugoslavia and I hope that the entire Senate will join in sending a strong signal to the people of Yugoslavia.

I ask unanimous consent the Washington Post article and the statement of policy be be printed in the RECORD.

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

[From the Washington Post July 8, 1991]

THE PRIORITY OF FREEDOM

(By Jeane Kirkpatrick)

The U.S. government was not the only democracy that found it necessary to rethink and retract its early position on the Yugoslav conflict. Early in the developing crisis, the European Community and most of its member states, including the United Kingdom and France, made declarations that gave priority to national unity and territorial integrity over self-determination for the Yugoslav republics. Only Austria and Germany, which have had the closest historical association with Croats and Slovenes, expressed from the start sympathy with the aspirations of the people who were threatening secession.

Although American officials were not alone in attempting to help hold Yugoslavia together, no government was more concerned than the U.S. Department of State with the possible effects of the collapse of central authority in Yugoslavia. Public and semi-public comments, official and semi-official remarks predicted dire consequences if Yugoslavia were permitted to succumb to nationalist passions and separatist tendencies. Officials spoke on background about "blood baths" and "chaos" that might accompany secession.

Secretary of State James Baker traveled to Belgrade and came out strongly in favor of the "unity and territorial integrity" of Yugoslavia. He also warned that the "instability and the breakup of Yugoslavia could have some very tragic consequences, not only [there], but more broadly in Europe."

While spokesmen for the European Community reflected aloud that Yugoslavia was the business of the EC and not of the United States, they took the same position. Like Baker, they warned that no diplomatic recognition would be forthcoming should Slovenia and Croatia secede. Like Baker, they warned that economic as well as political development would be endangered by separation.

Europeans and Americans alike reacted as if preservation of the Yugoslav state's sovereignty and territory was the central political value. Like European governments, the Bush administration then seemed shocked when Yugoslavia's central government used force to crush the rebellion against the authority others had attributed to it.

The reactions changed once force was introduced, and Austrian Chancellor Franz Vranitzky remarked: "I don't want to name names, but anyone who still talks of the need to maintain the territorial integrity of Yugoslavia fails to see that the problem is now quite different."

The State Department was not long behind the British, French and the rest of the EC in making it clear that use of force by the Yugoslav central government was also not acceptable.

As Americans prepared to celebrate the Fourth of July, State Department spokeswoman Margaret Tutwiler was affirming that the U.S. government supported the "national aspirations of the Yugoslav people" and that, in the U.S. view, it is "up to the Yugoslavian people themselves to determine their future, their internal, their external borders."

Of course, Americans have powerful reasons to be the first to understand that "in the course of human events" it may become "necessary for one people to dissolve the political bonds which have connected them with another." Americans have special reason to understand that it is the right of the people to alter [their government] or to abolish it, and to institute a new government." We wrote it into our Declaration of Independence.

The reason that Americans and their government should prefer self-determination over territorial integrity as a political value is that self-determination is part of government by consent. Government by consent is a right of persons. Territorial integrity is an attribute of states.

The principle involved in the secession of Slovenia and Croatia is self-government. The legitimate interest of the United States and the European governments in this question is maintainning peace. It is not in the borders of Yugoslavia per se.

The point must be emphasized because, on several occasions in recent months, the U.S. government has given or appeared to give priority to the preservation of states and their "territorial integrity."

In Iraq, when the unexpected cease-fire was imposed, U.S. government spokesmen explained that the decision resulting in part from a desire to preserve "the territorial integrity" of Iraq in order to avoid creating a vacuum of power. The risks of "chaos" were judged to be greater than the risks of genocide.

Again in Ethiopia, the U.S. government intervened to prevent establishment of an independent Eritrea and to preserve the "territorial integrity" of Ethiopia.

But, of course, it is not for the U.S. government to preserve structures established by monarchs and dictators. It is for people themselves to make decisions about their governments.

Obviously, many more such problems are already on the horizon—in the Baltics in Georgia, throughout the Soviet Union.

In addressing these problems, it is important that the U.S. government have its priorities straight. And the only priority acceptable to American principles and interests in these cases is the priority of freedom.

The United States was founded by people who risked order for freedom. The American Civil War confirmed those priorities and those principles. U.S. foreign policy in 1991 should do no less.

STATEMENT OF U.S. POLICY MAY 24, 1991

We assess the violations of human rights by Serbian authorities in Kosovo Province as extremely grave. There is a deteriorating cycle of action and reaction in the context of a fundamental political conflict between Serbs and ethnic Albanians. Basing its claim to Kosovo primarily on historical grounds, Serbia is seeking to reestablish its control over Kosovo through repressive means which clearly violate CSCE principles. The majority ethnic Albanian population in Kosovo bases its claim to autonomy within the province of ethnic grounds, and, in the face of Serbian repression, has escalated its demands since mid-1990 to insist on republican status separate from Serbia.

In the province of Kosovo, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians. This violence included the use of excessive force by the police to disperse peaceful demonstrators, including random and at times unprovoked shooting by the police, resulting in at least 30 deaths and hundreds of injured.

Human rights abuses by the Serbian authorities against the majority Albanian population in Kosovo have continued thus far in 1991. Albanians are arrested, beaten, and otherwise harassed for attempting to exercise basic human rights, such as freedom of speech and assembly. Principal provincial government organs remain shut down and

most government functions have been taken over by Serbs appointed from Belgrade. Albanian media organs remain closed, persons attempting to bring in Albanian language publications printed outside Kosovo are sometimes harassed. Many Albanian-language schools in Kosovo have been closed because of a refusal by teachers and pupils to use a new curriculum imposed by Serbia, and Serbian administrators almost completely dominate the Pristina University Rectorate and some individual faculties, and many ethnic Albanian professors have been fired or driven out.

The ability of ethnic Albanians in Kosovo to pursue their interests through the political process has been further curtailed by the Serbian government's abolition of the Presidency and Executive Council of Kosovo Province and by its replacement of Kosovo Province's representative on the federal Presidency.

Meanwhile, official Serbian arguments that Serbian policies in Kosovo are directed only against ethnic Albanian separatism from Serbia (and potentially from Yugoslavia to join neighboring Albania) have become to some extent a self-fulfilling prophecy: ethnic Albanias and their leaders in Kosovo have grown increasingly insistent on achieving a Republic separate from Serbia, and have boycotted opportunities, like the Serbian elections in December 1990, to participate in the Serbian political process.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 153) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas in 1990 the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia elected non-communist governments committed to democracy and free market economics;

Whereas in 1990 the republics of Montenegro and Serbia elected communists governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia and thereby denied representation to the collective presidency of Yugoslavia;

Whereas the leaders of Slovenia and Croatia and the other Yugoslav republics have been engaged in negotiations on the future structure of Yugoslavia since October, 1990;

Whereas these negotiations have not included representatives from the provinces of Kosova and Vojvodina;

Whereas on June 25, 1991, the republics of Croatia and Slovenia declared their independence;

Whereas the Yugoslav Army responded to these declarations by mobilizing and deploying tanks and troops in Slovenia, Croatia and Kosova;

Whereas the unwillingness of the Yugoslav central government and the military authorities to negotiate with the democratically elected leadership of Slovenia and Croatia has led to unnecessary bloodshed;

Whereas there have been numerous reports of deaths of civilians, policemen, militiamen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia, and as a result of repression against the Albanian population in Dosova; Now, therefore, be it

Resolved, That—

(1) The Senate supports the principles of democratization and self-determination for the six republics and two provinces of Yugoslavia;

(2) The Senate urges that the United States use its leadership to ensure that concerns regarding the restoration of political stability in Yugoslavia will not preclude the chief objective of promoting and securing democracy and self-determination.

(3) The Senate condemns the use of force by the Yugoslav authorities against civilians;

(4) The Senate urges the peaceful resolution of political differences in Yugoslavia and the inclusion of Kosova and Vojvodina in that process;

(5) The Senate calls on the Yugoslav Army to refrain from obstructing the functioning of the democratic governments of Slovenia and Croatia and calls on the government of Serbia to cease from using force against the Albanian population of Kosova;

(6) The Senate calls for free and fair elections to be held in the provinces of Kosova and Vojvodina.

(7) The Senate urges the President to explore means of increasing direct diplomatic, political and economic ties with the democratic governments of the republics of Croatia and Slovenia;

(8) The Senate urges the State Department to expand direct contacts with the leaders of the democratic opposition of Kosova and Vojvodina;

(9) The Senate recommends that the administration shape its foreign assistance, trade and technical assistance programs to support the republics of Croatia and Slovenia and the other democratic republics in Yugoslavia, and to encourage democracy in the rest of Yugoslavia.

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

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

The motion to lay on the table was agreed to.

DECLARING IT THE POLICY OF THE UNITED STATES THAT THERE SHOULD BE A RENEWED AND SUSTAINED COMMITMENT TO ADULT EDUCATION

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Joint Resolution 279, a joint resolution to recognize the importance of Federal aid for educating adults, just received from the House; that the joint resolution be deemed read a third time and passed, that the motion to reconsider passage of the resolution be laid upon the table; and that the preamble be agreed to.

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

The joint resolution (H.J. Res. 279) was deemed read the third time, and passed.

The preamble was agreed to.

ORDERS FOR MONDAY, JULY 15, 1991

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 3 p.m., Monday, July 15; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 3:30 p.m., with Senators permitted to speak therein.

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

RECESS UNTIL MONDAY, JULY 15, 1991, AT 3 P.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 3 p.m., Monday, July 15.

There being no objection, the Senate, at 10:04 p.m., recessed until Monday, July 15, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 11, 1991:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RAOUL LORD CARROLL, OF THE DISTRICT OF COLUMBIA, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

EXPORT-IMPORT BANK OF THE UNITED STATES

CONSTANCE BASTINE HARRIMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 1995.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

EUGENE PETERS, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1992.

FEDERAL RESERVE SYSTEM

DAVID W. MULLINS, JR., OF ARKANSAS, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS.

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.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 8036.

To be surgeon general, USAF

To be lieutenant general

MAJ. GEN. ALEXANDER M. SLOAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JAMES B. DAVIS, [redacted] U.S. AIR FORCE.