SENATE—*Tuesday, July 16, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass, or a tinkling cymbal.—I Cor. 13:1.

Eternal God, giver of life, for whom the greatest commandment is love, help us to understand the meaning of this word which has been so diminished and cheapened in our culture. Help us to see that it is the greatest word in the Bible next to the name of God, Himself. May we realize that it is not a sentimental attitude, but a matter of character, of thoughtfulness, of respect, of caring and concern and commitment to another.

Gracious Father in Heaven, this is a time for love. We need each other. We need each other's support. We need each other's strength. As pressure increases in this session, where volumes of words are spoken, remind us often that words may be shallow and empty, like "a noisy gong or a clanging cymbal." Help us to pour love into our words that they may have meaning and substance and be persuasive. Give us love for one another, love that dissolves pride and frustration and anger and bitterness.

In His name, who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning there will be a period for morning business not to extend beyond 10 a.m., during which Senators will be permitted to speak. During this period for morning business, Senator LIEBERMAN is to be recognized for up to 5 minutes and Senator JOHNSTON is to be recognized for up to 20 minutes.

Pursuant to a previous order granting to me the authority to proceed to Calendar item No. 125, S. 323, the gag rule repeal bill, it is my intention to exercise that authority at 10 a.m. today. Therefore, the Senate will begin consideration of that measure at 10 a.m.

From 12:30 p.m. until 2:15 p.m., the Senate will stand in recess to accommodate the respective party conferences.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business.

The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON] for up to 20 minutes.

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes at this time.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. JOHNSTON. Mr. President, on May 23, 1991, the Senate Committee on Energy and Natural Resources ordered reported the most comprehensive energy policy legislation ever presented to the Senate. This legislation is S. 1220, the National Energy Security Act of 1991. It enjoyed broad-based, bipartisan support on the committee, with a 17-to-3 vote in favor of reporting the measure.

The time is long overdue for a comprehensive, balanced energy policy for our Nation. S. 1220 presents an opportunity for the Senate to make such a policy a reality. It is my hope that the Senate will soon turn to consideration of this important bill.

Mr. President, I believe that there is a serious lack of knowledge about this significant legislation. I hope over the course of the next few days to provide information to my colleagues about what this bill does and does not do. I also hope to set the record straight regarding certain misconceptions about the legislation. In this regard, I ask unanimous consent that a letter from Secretary Watkins and a letter from Mr. Phillip Berry and Mr. Michael Fischer of the Sierra Club be printed in the RECORD following my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

S. 1220—A BALANCED BILL

Mr. JOHNSTON. Mr. President, we have strived to make S. 1220 a balanced bill. To describe it as solely a production-sided measure is, I believe, grossly inaccurate. S. 1220 includes all the necessary elements of a national energy policy: Energy efficiency as well as energy production; conventional energy and alternative energy; and renewable energy and nuclear energy.

Those that call this a production bill ignore the extensive provisions that it contains on energy efficiency, including provisions to encourage greater efficiency by the industrial, commercial, and residential sectors, by the Federal Government, and by electric utilities. They also ignore the provisions to encourage the reuse of used oil, and the sections of the bill devoted to energy assistance to State, local, insular, and tribal governments.

As an aside, Mr. President, it was curious to me that one of my staffers not too long ago went to a symposium of environmentalists who had a discussion about various things that could be done and should be done on the so-called soft path. With virtually every item that came up, my staffer was able to say—either state openly or by sending notes—yes, that is in our bill, S. 1220.

I ask those who are on the environmental side of the ledger to take a look at S. 1220 because it is, in fact, an environmental wish list of those things that ought to be done.

Those that oppose this legislation as production-oriented overlook the sig-

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

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nificant provisions to encourage the development and deployment of renewable energy resources in the United States and in lesser developed countries. Included in these measures are those addressing the commercialization of biofuels, geothermal, wind, fuel cells, and utility-scale photovoltaics technologies. Also included is the expansion of the interagency working group charged with promoting the export of renewable energy technologies to also include energy efficiency products and technologies.

Those arguing that this is merely an energy production bill do not mention the extensive alternative fuel fleets provisions, the program to develop the use of electric and electric hybrid vehicles, as well as the mass transit and training provisions contained in the legislation. Likewise, the bill contains measures that establish a replacement and alternative fuels program, require the Secretary of Transportation to set new corporate average fuel economy [CAFE] standards, and provide for the scrappage of old motor vehicles.

And finally, those that would lead my colleagues to view this as only an energy production bill do not point out the many important provisions to encourage research, development, deployment, and commercialization of a broad range of energy resources, from renewable energy and energy efficiency to natural gas, coal, and fusion.

Simply stated, S. 1220 is much, much more than an energy production bill. It is a comprehensive package that contains many significant energy efficiency and renewable energy provisions, and it will serve as the basis for a balanced national energy policy.

S. 1220 AND THE ADMINISTRATION'S BILL

A second misconception regarding the bill is that it is, in essence, the administration's proposal. In fact, the Energy Committee bill was introduced a full month before the administration bill, and the two pieces of legislation are far from being the same. That is not to say that the bills do not address some of the same issues. Both would open the Coastal Plain of the Arctic National Wildlife Refuge to competitive oil and gas leasing. Both address natural gas regulatory reform, nuclear licensing reform, and reform of the Public Utility Holding Company Act, although the specific provisions differ.

It is on the subjects of energy efficiency, renewable energy and transportation that the bills are most markedly different. S. 1220 contains over 25 provisions in the efficiency and renewables area that do not appear in the administration's proposal. In fact, in the important area of appliance efficiency, the administration's bill not only fails to expand the program, but explicitly precludes standards for lighting systems and a broad range of commercial products. Further, the administration bill does not address the CAFE issue, while S. 1220 requires the Secretary of Transportation to set new CAFE standards.

S. 1220 contains several provisions on coal, coal technology, and electricity that are absent from the administration's bill. Indeed, the word "coal" is not mentioned on even one of the 165 pages of the administration's bill. The administration's proposal would amend the Nuclear Waste Policy Act, would abolish the Federal Energy Regulatory Commission, would deregulate oil pipelines, and would provide for the leasing of the Elk Hills Naval Petroleum Reserve. S. 1220 does not.

Certainly, the administration's bill set forth an approach that would be taken to energy policy. Admiral Watkins and his staff are to be commended for their initiative in developing the administration's national energy strategy and for their recognition of the importance of having an energy policy for our Nation. However, S. 1220 represents a far more comprehensive and balanced measure to address our Nation's energy needs than that proposed by the administration.

S. 1220

I believe that the misconceptions regarding S. 1220 stem from a lack of familiarity with the contents of the bill. For the information of my colleagues, I provide a brief summary of major components of the bill, and ask unanimous consent that it be included in the RECORD following my statement.

CAFE AMENDMENT

Mr. President, in addition, this morning I am introducing an amendment pertaining to CAFE. I ask unanimous consent that my statement, the text of the amendment and the section-by-section analysis be printed in the RECORD following my remarks.

Mr. President, I firmly believe that changes in the CAFE law must be made in order to decrease our dependence on imported oil. For this reason, I offered a tough, yet reasonable, alternative to the bill language in committee. I intend to offer this amendment again when the full Senate considers the bill.

The Johnston CAFE amendment would require the following standards for the automobile fleet as a whole: 30.2 miles per gallon in 1996; 34.0 miles per gallon in 2001; and 37.0 miles per gallon in 2006. This compares with the current standard of 27.5 miles per gallon. The standards in the Johnston amendment were developed in consultation with OTA and its contractor, Mr. K.G. Duleep, arguably the Nation's foremost expert in this area.

The Johnston amendment stands in contrast to S. 279, the legislation offered by my friend, Senator BRYAN. The hearing record developed before the Energy Committee clearly establishes that S. 279 would set unrealistic CAFE standards, at least some 2 to 3 miles per gallon above what OTA says would be a realistic goal.

Setting overzealous CAFE standards is a step that we cannot afford to take. Doing so would jeopardize the survival of the American automobile industry, strike a devastating blow to our economy, and cost thousands of jobs.

CONCLUSION

Clearly S. 1220 has some provisions that will be highly controversial. Key among these are oil exploration, development, and production on the Coastal Plain of the Arctic National Wildlife Refuge, amendments to the CAFE law, and nuclear licensing reform.

But to confect a meaningful energy policy, we must face up to these difficult issues. The legislation we pass must cover the spectrum of energy concerns. No one energy initiative is capable of freeing us from dependence on imported oil.

Undoubtedly, when S. 1220 is brought to the floor, we will have vigorous debate and difficult votes on how to achieve an appropriate balance in our national energy policy. We ask that Members participate in this discourse, but we also ask that they support this package, even though they may disagree with elements of it.

The need for a sound policy to address the difficult issues posed in the energy arena has never been more apparent than it is today. Action will require initiative, risk, and perseverance. Surely the Persian Gulf war should give us the resolve needed to establish and implement a national energy policy. Three energy crises within a period of 18 years are enough. It is now time to act.

For the information of my colleagues, I ask unanimous consent that a brief summary of the major components of the bill be printed in the RECORD following my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

THE SECRETARY OF ENERGY,
Washington, DC, June 28, 1991.

Mr. PHILLIP BERRY,
President, Sierra Club, Washington, DC.

DEAR MR. BERRY: The comprehensive energy legislation recently approved by the Energy and Natural Resources Committee of the Senate does not merit the attack launched by the Sierra Club in its June 21, 1991, campaign letter to Senators. The bill, S. 1220, resulted from intensive analysis and debate by twenty Senators representing a broad cross section of political views. Seventeen of those twenty Senators voted for this legislation as a balanced approach to meeting our energy and environmental challenges.

Framing the current energy debate in the inflammatory language you have chosen will produce neither a sensible energy policy nor increased environmental protection. Reasonable people may well reach different answers in matters as important and complex as energy issues, but those who wish to be a part of the energy policy debate have an obligation to illuminate and clarify the issues rather than to misinform.

Your letter claims that S. 1220 "weakens laws designed to prevent construction of unsafe reactors." That is simply not true. Nothing in S. 1220 would allow unsafe nuclear reactors to be built or licensed. What S. 1220 would do is provide for more effective public participation in the nuclear licensing process by providing the public with more complete information about nuclear plant design and operation up front, before the plant is built.

Your letter also claims that S. 1220 opens a major loophole in the Clean Air Act "which will worsen acid rain". The bill's "WEPCO" provisions do not affect the cap placed on sulfur dioxide emissions by the Clean Air Act Amendments of 1990, and cannot, therefore, worsen acid rain. The provisions in S. 1220 will encourage utilities to complete environmentally beneficial pollution control projects, including switching to cleaner-burning fuels.

S. 1220 does not, as you claim, override the Clean Water Act, NEPA, or the Endangered Species Act. What the legislation does is to demand greater coordination and discipline on the part of the Federal agencies that administer these statutes. Such discipline will benefit consumers, the economy and the environment.

One of the most outlandish of all the claims made in your letter is that S. 1220 "eliminates state regulation of the utility industry." Reform of the Public Utility Holding Company Act, as contained within S. 1220, will do no such thing, as any state regulatory will tell you. Indeed, by fostering broader competition in electricity generation, PUHCA reform will encourage use of innovative technologies, including renewable technologies.

Finally, S. 1220 would not "destroy" the Nation's "premier wilderness areas—the Arctic National Wildlife Refuge, . . . and other fragile coastal areas." First, with respect to "other coastal areas," the legislation actually would place the coasts of California and New Jersey off limits to oil and gas leasing until after the year 2000. The Administration does not support those provisions because they would extend the already significant offshore leasing deferrals announced by the President in June 1990. Secondly, the Committee's vote to allow leasing and development of a small portion of the coastal plain of ANWR does not "destroy" anything except the myths that have been propounded by those opposed to ANWR development.

In the 1980 legislation that expanded the Arctic National Wildlife Refuge from 9 million to 19 million acres, Congress specifically avoided designating a portion of the coastal plain as a wilderness area. It directed instead that the Department of Interior (DOI) study the option of opening a part of the coastal plain to oil and gas exploration. DOI reported to Congress in 1987, in the so-called 1002 Report, that resource development should be allowed on the non-wilderness section of the plain, under strict environmental safeguards. The Fish and Wildlife Service at DOI has conducted over 200 studies of the impact of possible energy development on the biology and ecology of the coastal plain, and has concluded that this development will not jeopardize the coastal plain environment, so long as strict environmental safeguards of the sort required by S. 1220 are maintained.

An objective analysis of S. 1220 would not support the conclusions expressed in your letter of 21 June 1991. We trust you will reconsider your blanket condemnation of this legislation and instead work with Congress to improve those provisions which constitute specific and reasoned concerns for you and for your members.

This Congress has the best opportunity in more than a decade to enact comprehensive energy legislation that enhances our energy security, improves environmental quality, protects consumers, and promotes a healthy economy. Let us debate the important issues inherent in this legislation on the merits.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

SIERRA CLUB,
Washington, DC, June 21, 1991.

DEAR SENATOR: The Energy and Natural Resources Committee has approved the Johnston-Wallop comprehensive energy bill, S. 1220. This bill is an environmental disaster, and we urge you to oppose it. We specifically urge that you vote against a motion to invoke cloture in order to sustain a filibuster against S. 1220.

At a time when the American public is demanding more environmental protection, the Johnston-Wallop energy strategy weakens virtually every major national environmental law and policy. S. 1220:

Weakens laws designed to prevent the construction of unsafe nuclear power plants;

Opens a major loophole in the Clean Air Act which will worsen acid rain and urban smog;

Overrides the Clean Water Act, the National Environmental Policy Act, and the Endangered Species Act;

Weakens hazardous waste disposal requirements of the Solid Waste Disposal Act;

Eliminates state regulation of the utility industry and makes it even more difficult for safe renewable energy sources to enter the power grid;

Destroys one of the nation's premier wilderness areas—the Arctic National Wildlife Refuge, and threatens other fragile coastal areas.

Moreover, the Energy Committee specifically rejected measures which would have reduced our dependence on oil and protected the environment at the same time. The Johnston-Wallop bill does nothing to improve the efficiency of our automobiles, which account for almost half of our oil consumption.

The Johnston-Wallop bill is not an energy policy. It is a wish list of environmentally destructive changes which the oil, nuclear, and coal industries have sought for years. We urge you to defeat it.

Sincerely yours,

PHILLIP BERRY,
President.
MICHAEL FISCHER,
Executive Director.

EXHIBIT 2

SUMMARY OF KEY PROVISIONS IN S. 120, THE NATIONAL ENERGY SECURITY ACT OF 1991

TRANSPORTATION AND ALTERNATIVE FUELS

CAFE.—Our Nation's transportation sector uses 63 percent of the oil consumed in the United States. Several provisions in S. 1220 are intended to address this situation.

Title III of the bill pertains to CAFE. It directs the Secretary of Transportation to adopt new CAFE standards based on specific assumptions. The Johnston CAFE amendment, which was offered in committee and which will again be offered when the full Senate considers the bill, would require the following standards for the automobile fleet as a whole: 30.2 MPG in 1996; 34.0 MPG in 2001; and 37.0 MPG in 2006. This compares with the current standard of 27.5 MPG. The standards in the Johnston amendment were developed in consultation with OTA and its contractor, Mr. K.G. Duleep, arguably the Nation's foremost expert in this area.

Car Scrappage Programs.—S. 1220 would quadruple the amount of the fees to be collected from automobile manufacturers who fail to comply with the CAFE standards. Under the bill, these fees may be appropriated to fund State programs designed to take pre-1980 cars off the road. This should result in both environmental and fuel economy benefits.

Alternative Fuel Fleets.—S. 1220 contains an extensive alternative fuels fleets program, covering Federal, State and private fleets. The program requires that a specified percentage of replacement vehicles purchased be alternative fuel vehicles according to a set schedule. The program applies to all Federal fleets, and to State, municipal, and private fleet operators with 50 vehicles or more and at least one fleet of 20 or more vehicles in a metropolitan statistical area with a 1980 Census population of 250,000 or more. Certain exemptions are specified for military vehicles, emergency vehicles, and the like.

Electric and Electric-Hybrid Vehicle Program.—The bill contains an electric vehicle and electric-hybrid vehicle research, development and demonstration program and authorizes the Secretary to issue guidelines and funding for State and local infrastructure development programs for these vehicles.

Alternative Fuels.—The legislation directs the Secretary of Energy to establish a program to promote the development and use of domestically produced replacement and alternative fuels. The Secretary is required to make demand estimates for such fuels and to seek voluntary supply commitments from fuel providers sufficient to meet demand. The bill gives the Secretary standby authority to prepare, in the event of a shortage, a plan to require providers of the fuel to make adequate domestic supplies available to the public. The plan is to lay before Congress for sixty days before it is implemented.

RENEWABLE ENERGY AND ENERGY EFFICIENCY

Renewable Energy.—S. 1220 includes several important measures to encourage the development and deployment of renewable energy resources in the United States and on an international scale in lesser-developed countries. These provisions include joint ventures for the demonstration of renewable energy technologies such as biofuels, geothermal, wind, fuel cells and utility-scale photovoltaics, as well as expansion of the interagency working group that promotes the export of renewable energy and energy efficiency products and technologies. In addition, S. 1220 contains a provision granting authority to the Department of Energy to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.

Energy Efficiency.—S. 1220 contains extensive provisions on energy efficiency. Included among these are measures to improve energy efficiency in the industrial, commercial, and residential sectors, to improve Federal energy management, and to increase energy efficiency in the utility sector.

The legislation contains provisions to strengthen Federal and State building energy efficiency standards; to encourage the establishment of uniform residential energy efficiency ratings; to promote energy efficient mortgages; to upgrade manufactured housing energy efficiency standards; to improve efficiency in energy-intensive indus-

tries; to require the development of energy efficiency labeling for windows and window systems, lamps and luminaries, and for certain commercial and industrial equipment; and to establish energy efficiency standards for certain commercial air conditioning and heating equipment and for showerheads.

With respect to Federal energy management, Federal agencies are required to install certain energy efficiency improvements. The bill establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities.

The bill also directs the General Services Administration (GSA) to identify the energy cost-effectiveness of items listed in the GSA product schedule, and directs the Administrator of the GSA to consider fuel efficiency when purchasing government vehicles. Finally, this legislation authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy, and it contains provisions authorizing the demonstration of new energy efficiency technologies by Federal agencies.

Perhaps most significantly, S. 1220 would promote aggressive energy efficiency programs by utilities by requiring State commissions to consider allowing utilities to make as much profit from their energy conservation programs as they make from their power production investments. S. 1220 further promotes energy efficiency by requiring State commissions to consider requiring utilities to engage in integrated resource planning (IRP), and it directs certain Federal power marketing agencies and the Tennessee Valley Authority to use IRP.

S. 1220 provides an incentive to the States to promote efficiency by establishing a grant program to provide financial assistance to State commissions to cover costs associated with the consideration and development of IRP.

S. 1220 contains a provision amending the Energy Policy and Conservation Act to promote the collection, refining, re-refining, and reprocessing of the 10 million barrels of used lubricating oil that is currently dumped into the Nation's soil and water. Used oil can be reprocessed into fuel and other petroleum products through market incentives and the removal of legal disincentives.

Finally, the bill also contains a subtitle including several provisions designed to assist State, local, insular and Tribal governments in promoting energy efficiency and renewable energy.

ANWR

S. 1220 authorizes a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge, Alaska (ANWR). The bill requires the Secretary of the Interior to implement such a program (through regulations and lease stipulations) so as to result in no significant adverse effect on fish and wildlife, their habitat, or the environment of the refuge, and to require the application of the best commercially available technology for oil and gas exploration, development and production.

The legislation provides that the Federal share (50 percent) of any revenues from ANWR is deposited in a special fund in the Treasury—the Energy Security Fund—to be used, subject to appropriation, by the Secretary of Energy to fund energy-related programs and projects designated to enhance the Nation's energy security and reduce reliance on imported oil.

NUCLEAR

S. 1220 directs the Secretary to carry out an advanced nuclear reactor research, development, and demonstration program that will lead to commercialization of advanced reactor technologies after 1995. The program is to include both advanced light water reactor technology and other advanced reactor technologies.

S. 1220 also addresses the issue of nuclear reactor licensing. Basically, the bill codifies reforms in the licensing process implemented by the Nuclear Regulatory Commission (NRC) two years ago. The NRC's statutory authority to institute those reforms is now being contested in court. Accordingly the bill amends the Atomic Energy Act to clarify the NRC's authority to adopt those changes. In addition, the bill gives the NRC additional direction on the timing and procedures to be used in licensing hearings held after the plant has been built and is ready to go into operation. While serving to prevent licensing hearings from being used to delay operation of plants the NRC has determined to be safe, the bill preserves opportunities for the public to raise significant safety concerns, for the courts to review NRC licensing decisions, and for the NRC to exercise its safety responsibilities.

S. 1220 also contains provisions already passed by the Senate six times which would establish the United States Enrichment Corporation for purposes of taking over the uranium enrichment enterprise operated by DOE.

NATURAL GAS

The legislation contains provisions streamlining certain natural gas regulatory requirements in order to facilitate the delivery of natural gas in the marketplace. In addition to these regulatory provisions, S. 1220 contains provisions that are designed to facilitate greater use of natural gas. This is particularly significant because natural gas is a clean-burning fuel which can make a major contribution in displacing imported oil. To encourage this, the bill would expedite pipeline construction by providing a range of regulatory options. It would also remove regulatory obstacles to the greater use of natural gas as an automotive fuel. The bill provides for a single consolidated NEPA review of pipeline project certification, eliminating duplicative paperwork without reducing environmental analysis and consideration.

RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION

The legislation contains research, development, demonstration and commercialization provisions including those addressing natural gas, high efficiency heat engines, oil shale, renewable energy, energy efficiency, fusion, and advanced oil recovery, and contains a section directing the Secretary of Energy to promote math and science education for low-income and first generation college students.

PUHCA

S. 1220 reforms the Public Utility Holding Company Act (PUHCA) with a goal of facilitating competition in the generation of electricity. It does so in a way that preserves the structure of the Act and includes appropriate consumer protections.

The bill allows for the creation of exempt wholesale generators (EWGs): corporate entities who are engaged exclusively in the business of wholesale electric generation and who are completely exempt from corporate organizational restrictions under PUHCA. Entities who are currently subject to PUHCA (registered utility holding companies and exempt utility holding companies) and entities who are not currently subject to PUHCA (non-utilities and non-holding company utilities) are permitted to own EWGs without limitation.

ADDITIONAL PROVISIONS

Hydropower.—The bill improves Federal Power Act regulation. As in the natural gas title, the bill provides for a single consolidated NEPA review of project licensing, eliminating redundant paperwork without reducing environmental scrutiny. Under S. 1220, subject to certain conditions and certifications by the Governors, States are generally allowed to take over licensing of hydroelectric projects having a capacity of 5 megawatts or less. The bill also directs the Secretary of the Interior to study and implement water use conservation measures at Federal irrigation projects for purposes of increasing hydropower production, making more efficient use of project power, and providing more water for fish, wildlife, and instream values.

Outer Continental Shelf.—S. 1220 provides impact aid to coastal States and communities affected by OCS leasing and development in the amount of 37.5 percent of "new" OCS revenues. The legislation imposes a moratorium on all preleasing and leasing activity offshore California and New Jersey under the Outer Continental Shelf Lands Act until the year 2000.

Coal, Coal Technology, and Electricity.—S. 1220 contains research and development provisions relating to a variety of coal technologies, including advanced coal-based technologies, the non-fuel use of coal, coal refining, underground coal gasification, and coal-fired locomotives. Several of these technologies are aimed at improving the utilization and combustion of coal in an environmentally sound way. The bill establishes a Clean Coal Technology Export Coordinating Council to facilitate and expand the export and use of clean coal technologies, with a priority for lesser-developed countries. The bill also contains other provisions addressing coal and electricity.

Strategy Petroleum Reserve.—S. 1220 directs the President to enlarge the SPR to one billion barrels as rapidly as possible and authorizes the creation of a 10 million barrel Defense Petroleum Inventory.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Kentucky [Mr. FORD].

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. FORD. Mr. President, I thank my friend and chairman of the Energy and Natural Resources Committee.

Mr. President, I would like to associate myself with the remarks of my colleagues about the importance of bringing up S. 1220 for consideration by the full Senate. S. 1220 is the comprehensive energy legislation reported by the Committee on Energy and Natural Resources.

Many people have confused S. 1220 with the administration's national energy strategy. Let me say at the outset that S. 1220 is quite different from that of the administration. S. 1220 has taken some bold steps in the area of energy conservation and efficiency. S. 1220 has

taken bold steps in the area of alternative fuels. S. 1220 includes research and development initiatives on a wide variety of promising energy technologies. None of these provisions are contained in the administration's legislation.

It is critical that the Senate consider S. 1220 in a timely fashion. S. 1220 was reported by the Energy Committee after 15 hearings and 13 markups. There are important issues to be considered in S. 1220, and the legislation deserves a full debate in the Senate. That is how the Senate operates. The rules of the Senate provide the opportunity for full debate of all issues.

Some people have suggested that the Senate should delay consideration of S. 1220. Others have suggested that the Senate should not consider S. 1220 at all. That would be unwise. And it would be contrary to how the Senate operates.

Our Nation has operated for too long without a comprehensive energy policy. That has not been for lack of effort. Hundreds of bills have been introduced over the years to deal with energy issues. But it is not easy to reach a political consensus on energy issues. So we have dealt with some of the easier issues. All too often, the harder issues have been set-aside.

But the facts are quite simple. We are too dependent on foreign oil. Our efforts to conserve are not sufficient. And we do not use our homegrown resources as well as we should.

The chairman of the Energy Committee should be commended for his effort in bringing together the members of the committee to develop a comprehensive bill. As a result of that effort, S. 1220 addresses the entire range of energy issues.

S. 1220 is the result of compromise. It is not a perfect piece of legislation. But it is a bill that deserves consideration by the full Senate.

To be sure, I am not completely satisfied with every provision of S. 1220. I voted against the automobile fuel efficiency provisions of S. 1220. I also voted against drilling in the Arctic National Wildlife Refuge. I do not believe that drilling in ANWAR is necessary to decrease our dependence on foreign oil. Bujt these provisions were part of the compromise. And I supported the compromise. That is what compromise is all about.

There are other important provisions of this bill that make it worthy of support. I have mentioned some of these already: Bold measures in energy conservation and efficiency; bold steps in development of alternative transportation fuels; and research and development on promising energy technologies.

I would also like to talk briefly about two other provisions of S. 1220 that are very important to my home State of Kentucky. During the committee's consideration of S. 1220, we adopted provisions to ensure that coal is available as clean source of energy well into the future. The key to the continued use of coal is to develop the technology to make it both clean and economical. We have enough coal reserves to meet our projected needs for more than 200 years. It makes absolutely no sense to ignore this home-grown resource. But we must develop the technology to make it cleaner. And we must do that economically. S. 1220 will set in motion the programs to achieve these goals.

Another critical provision of S. 1220 is title X, which deals with uranium enrichment. Title X is identical to legislation passed by the Senate in May. It is nearly identical to legislation passed by the Senate five times before that. Title X would transfer the Nation's uranium enrichment enterprise from the Department of Energy to a new Government corporation. This provision is needed if the enrichment enterprise is to remain profitable over the long-term. It is critical if the Federal Government is to remain in the enrichment business.

I cannot overstate the importance of the enrichment enterprise. It is a $1.5 billion per year business. It keeps a billion dollars of American ratepayers' money here at home. It brings another half billion dollars per year of foreign money into America. It makes the fuel that generates nearly 20 percent of our electricity.

But we must enact these provisions into law in order to keep this business viable. The enterprise now operates in a tangle of bureaucratic red tape as if it is a monopoly—except that it isn't a monopoly, and it hasn't been a monopoly for 20 years. The provisions of title X will setup a government corporation to run this business like a business. Title X will allow the enterprise to compete in the international marketplace—and surive.

The consequences of this business failing are serious. We would become dependent on foreign suppliers. Our balance of payments would suffer. Perhaps more importantly, we would not have the billions of dollars needed to dismantle and clean up the existing enrichment plants.

The revenues from the enrichment enterprise will provide a steady source of income that will pay for these cleanup costs. If the business is healthy, the costs of cleanup will come from revenues. If the business fails, the costs of cleanup will have to come out of the taxpayers' pockets.

My colleagues have all heard me talk about this before. Indeed, the Senate has passed this legislation time and time again. Each time, the House has failed to act. Inclusion of these provisions in S. 1220 may be our best hope for action by the House. Passage of comprehensive energy legislation containing these provisions will bring this issue into conference with the House. This is good reason to act on S. 1220.

As I said at the outset, S. 1220 is not perfect. But it is comprehensive, and it is worthy of the Senate's consideration.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Kentucky. I yield myself an additional 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes 25 seconds remaining.

NATIONAL ENERGY STRATEGY

Mr. JOHNSTON. Mr. President, over the next few days certain of my colleagues will speak about the national energy strategy, that is, the National Energy Security Act, which has been confused, indeed, with the administration's national energy strategy. There are, in fact, many common areas with which we both deal, but our bill is much, much more, and we want the Members of the Senate, in advance of consideration of that bill, to understand the comprehensive nature of the bill and the balanced nature of the bill so that people, particularly in the environmental community, will learn to understand what we have in this bill, because there has never been a comprehensive bill on the so-called soft path involving energy efficiency, alternate fuels, and conservation. There has never been a bill submitted this comprehensive and this effective.

Mr. President, I see the distinguished Senator from New Mexico in the Chamber at this time. Before I use all of my time, I would like to yield to him the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico. There are 5 minutes 57 seconds remaining.

THE IMPORTANCE OF NATIONAL ENERGY POLICY LEGISLATION

Mr. BINGAMAN. Mr. President, I appreciate very much the time that the Senator from Louisiana, the chairman of the Energy Committee, has yielded to me. I rise to join him and others in emphasizing the importance of enacting national energy policy legislation during this Congress. I think our past attempts at forging an energy policy have been characterized by crisis policymaking. There are many instances in the last decade or so that we can cite to reach that conclusion. Unfortunately, each time when the crisis of the day went away and the country got sidetracked on other issues, our commitment to deal with our energy problems also went away.

Obviously, this is not good policy for our country. The citizens of our Nation deserve better, expect better of us. I do think that the events in the Persian Gulf highlighted the need to get back on this issue and to seriously deal with it; specifically, to deal with the growing reliance on foreign oil. There is a consensus in the country that we need

greater energy security, we have gone from importing less than 30 percent of our oil in the early 1980's to something around 50 percent by 1990, and there is no reason to expect that market forces will reverse this growing reliance on foreign oil.

In fact, just to the contrary. The evidence that the Office of Technology Assessment has given us and the evidence that all of the experts before the Energy Committee presented indicates that absent some changes in our Federal policy, our dependence on foreign oil will increase very substantially over the rest of this decade.

Mr. President, I strongly believe the Nation needs to enact long-term, comprehensive energy legislation. The energy policy that we need to adopt must be well-rounded. It must be balanced. The goals must be clear. We must make a commitment to pursue the policy long enough to see some results.

S. 1220, the National Energy Security Act of 1991, on which the Senator from Louisiana is the prime sponsor and which I have cosponsored, legislation as reported by the Energy Committee, attempts in a very conscientious way to provide that comprehensive approach. There are some important elements of our energy policy which, in my view, are not adequately addressed in S. 1220, but we have reached the point where those issues can really only be dealt with by the full Senate.

S. 1220 does contain many measures that are constructive and will be helpful to the country. The bill includes provisions ranging from energy efficiency to improved coal technologies, from electricity to research and development, and from hydroelectric power to enhanced oil recovery.

I am particularly pleased that S. 1220 would mandate a far-reaching alternative fuel fleets program affecting Federal, State, municipal and private fleets, a move which I think is crucial if we are to reduce this dependence on foreign oil in the future.

In addition, the bill contains initiatives designed to facilitate the delivery of natural gas and to encourage greater use of natural gas. I am convinced that natural gas, which is abundant, efficient and clean burning, will play an ever-increasing role in addressing the environmental concerns which we all share and in reducing our reliance on imported oil.

Mr. President, I strongly support the initiatives contained in S. 1220 which would enhance the development and use of renewable energy resources as well. The bill contains some important provisions related to the use of photovoltaics, biofuels, wind fuel cells and geothermal technologies.

Portions of S. 1220 remain very controversial and certainly I do not personally support every single aspect of the legislation as it would come to the Senate floor. However, I strongly believe that a full debate in the Senate will move this country closer to adoption of a national energy policy.

Mr. President, I look forward to that debate and to the Senate's consideration of S. 1220. Again, I commend the Senator from Louisiana for the leadership he is providing to the country and to the Senate in this important area.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana has a minute remaining.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

COMMEMORATING FIRST BAPTIST CHURCH OF TUSCUMBIA, AL

Mr. HEFLIN. Mr. President, I rise today in recognition of the great First Baptist Church of Tuscumbia, AL, my hometown. This pillar of Christian faith has stood firm in God's service for 125 years. Many souls have been saved, and lives have been changed, by the ministry of this strong church.

On Sunday, July 21, 1991, First Baptist Church is celebrating its 125th anniversary with ceremonies commemorating the event. It is my desire to bring the church all of the recognition it deserves for its committed and consistent service to God and man.

Pastor Otis B. Smith, Jr., is providing the excellent leadership which any church needs to fulfill its mission of winning souls to Christ. His faith and wisdom is a blessing to all members of his church. From its origin in 1866 under the guidance of Elder W.E. Northcross, to its status today as a cornerstone of faith in the Christian community, First Baptist Church remains a beacon of light to many people.

The success of the church is demonstration of the difference that committed and faithful people can make in a world in need of hope. Psalm 127:1 says, "Except the Lord build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain." There is no question that the lord built this house. Jesus said that you will know them by the way they love each other. First Baptist Church is a house built on the foundation of God's love. The fruit of its labor is proof of this.

I am honored to be able to speak in behalf of the church and its milestone event. Its years of dedicated service is most worthy of recognition. I wish Pastor Smith, and all of his flock, continued success as they press on toward the mark of the high calling of Christ Jesus. I know that they will be blessed as they persevere in God's service, and many more lives will be saved through the ministry of First Baptist Church.

MISTY DANIELS PRESENTS SIOUX GIFTS TO PRESIDENT ON VISIT TO MOUNT RUSHMORE

Mr. PRESSLER. Mr. President, during President Bush's recent visit to Mount Rushmore to formally dedicate our Shrine of Democracy, he met with Misty Daniels. Misty, an enrolled member of the Oglala Sioux Tribe, is the only Operation Desert Storm widow from South Dakota.

Misty has a special place in all of our hearts. Her husband, Army Spec. Michael David Daniels, was killed on February 20, 1991, while on a reconnaissance mission in Iraq. I commend President Bush for taking the time to meet privately with Misty to express his personal appreciation for her late husband's sacrifices for his country and the cause of freedom.

Misty's mother, Olivia Felder, wrote to me in late May to advise me of her daughter's interest in presenting President Bush with Sioux gifts to honor him for his leadership as Commander in Chief. Upon receipt of her letter, I contacted White House officials on Misty's behalf to urge that the necessary arrangements be made to allow her to present President Bush with traditional Sioux gifts during his visit to the Black Hills of South Dakota.

I am pleased that Misty Daniels was able to meet President Bush and am happy to have played a small role in this matter. I ask that a Rapid City Journal article on Misty's visit with President Bush, as well as the correspondence from her mother, be placed in the RECORD.

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

[From the Rapid City (SD) Journal July 6, 1991]

EMOTIONAL BUSH MEETS WIDOW OF GULF WAR GI

(By Paulette Tobin)

President Bush had tears in his eyes as he thanked Misty Daniels for the sacrifice of her husband, Michael, who died Feb. 20 in a helicopter crash during the Persian Gulf war.

"He looked at me and said, 'How are you doing?'" said Daniels, who met with President and Mrs. Bush at Mount Rushmore, National Memorial before the July 3 dedication ceremony.

"It was very emotional," said Daniels, 20. "I just told him it was a very great honor for me to have been there, and he said it was a great honor to have met me. Then Mrs. Bush gave me a hug and she pushed my hair off my eyes and said I was a very brave woman.

Daniels, an enrolled member of the Oglala Sioux Tribe, was selected by the tribe to present gifts to the president to honor him and to welcome him to the Black Hills, said Daniels' mother, Olivia Gonzalez Felder.

Daniels, who was dressed in a traditional Indian ribbon dress, leggings, moccasins and other regalia, had about a minute with President and Mrs Bush. She also wore in her hair the eagle feather she was given during a Lakota memorial ceremony in Rapid City in March to honor those killed in the Persian Gulf war.

From the tribe, Daniels gave the president a tribal flag and a letter fom Tribal President Harold Salway. In the letter, Salway thanked the president for his leadership during the Persian Gulf war and told how proud the tribe was of the Oglala men and women in the armed forces. He encouraged the president to seek an accounting of the 2,300 POW/MIAs of the Vietnam War.

"I also wish to bring to your attention the Black Hills Claim," Salway wrote to the president. "Many of the economic and social ills that face the Sioux people today can be directly attributed to the loss of the Black Hills and other lands to the United States government."

Daniels also gave the Bushes presents from her family, including two medailions and a star quilt depicting an eagle sitting on a peace pipe.

Daniels, who plans to begin college in California later this summer, currently lives with her mother in Rapid City. This weekend she and her family have a special guest-Arricca Reichle, 24, of Savannah, Ga., whose husband, Hal Hooper Reichle, died in the helicopter crash with Michael Daniels.

Arricca Reichle said she and Daniels had met before their husband went overseas. Now, bonded.

"The pain never leaves," Misty Daniels said of her husband's death. "It is so hard to wake up in the mornings and realize you are not dreaming. It actually did happen."

RAPID CITY, SD, *May 24, 1991.*

LARRY L. PRESSLER,
U.S. Senator,
Rapid City, SD.

DEAR SENATOR PRESSLER: I am writing to you to request your assistance in a matter regarding the upcoming 50th Anniversary of Mt. Rushmore National Monument, to be held on July 4, 1991.

It is my understanding that President Bush will be honoring the attendees with his presence at this celebration. As an enrolled member of the Oglala Sioux Tribe, I wish to request on behalf of my daughter, Misty Daniels, that your assistance be given in efforts to make arrangements for a presentation of gifts to the President to honor him. As you are probably aware, it is our tradition to make such presentations to honorees at these types of events.

My daughter, Misty Lea Daniels is the only Operation Desert Storm widow in the state of South Dakota. Her husband, Army Specialist Michael David Daniels was killed in action in the Republic of Iraq while on a reconaissance mission on February 20, 1991. He was 20 years old. Misty is also 20 years of age.

Enclosed is a copy of a letter I have written to President Bush regarding this request.

Any assistance you can offer in expediting a reply to this request would be most gratefully appreciated.

Sincerely,

OLIVIA M. FELDER.

RAPID CITY, SD, *May 24, 1991.*

President GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: My son-in-law, Army Specialist Michael David Daniels, was one of the two soldiers who died when their OH/58 Kiowa Scout helicopter crashed while on a reconaissance mission in the Republic of Iraq on February 20, 1991 during Operation Desert Storm.

I wish to respectfully express my deep gratitude to you and Mrs. Bush for your letter of sympathy and your kind words of comfort in your letter to my daughter, Misty Lea Daniels. This has been one of the most difficult experiences in my life, as a mother; for the first time in my life, there is no way I can "fix" my child's situation. It will take a long time for us all to recover from our loss of Michael. We are immensely proud of the role he played in the liberation of Kuwait and in our great country's position as leader in this most recent fight for world peace. He is our own personal hero.

Mr. President, I would also like to express our appreciation and pride in you for your tremendous performance as our country's Commander-in-Chief. We realize that this was no easy task, to make the decisions you had to make during this war. We want you to know that every decision you made, we stood firmly behind. We are proud to have you as our President and have grown to greatly love and respect you as a human being.

We understand you will be attending the 50th Anniversary Celebration of Mt. Rushmore National Monument to be held here in the Black Hills on July 4, 1991. As enrolled members of the Oglala Sioux Indian Tribe, we wish to honor you at this celebration. Traditionally, an honoring ceremony includes a presentation of traditional gifts to an Honoree. Mr. President, I respectfully request permission for my daughter, Misty Daniels, to be allowed to make this presentation to you at this event. We believe, as the only Desert Storm widow in the state of South Dakota, that she deserves the honor of making such a presentation to you.

Misty would be dressed in full traditional Sioux regalia. We understand there are regulations involved, and individuals in the chain of command who also must be consulted, before this permission can be granted. However, I felt it appropriate for me, as her mother, to ask you, the designated Honoree, personally.

Thank you for your time, and I hope to hear from you soon, since the event is rapidly approaching.

In closing, I can only add, "God bless you, Mr. President. You, too, are our hero."

Respectfully,

OLIVIA FELDER.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 13, 1991.

Mr. FRED MCCLURE,
Director, Office of Congressional Liaison, the White House, Washington, DC.

DEAR FRED: Enclosed is a copy of correspondence I recently received from Olivia M. Felder of Rapid City, South Dakota, regarding her daughter's interest in presenting President Bush with some traditional Sioux gifts during the fiftieth anniversary activities at Mount Rushmore this summer.

As the enclosed correspondence indicates, Mrs. Felder's daughter, Misty Daniels, is the only Operation Desert Storm widow from the State of South Dakota. Sioux Indians traditionally honor an individual by presenting the honoree with traditional Sioux gifts. Her daughter wishes to honor President Bush in this manner.

During the consideration of President Bush's schedule for July 4th, I respectfully request that every consideration be given to the request of Mrs. Felder's daughter. If President Bush is unable to attend the July 4th ceremonies at Mount Rushmore, I would appreciate it if the White House would consider making other arrangements to allow Mrs. Daniels to present President Bush with the traditional Sioux gifts.

Thank you for your time and consideration of this matter. I look forward to hearing from you in the near future.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE WHITE HOUSE,
Washington, DC, June 25, 1991.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR LARRY: Thank you for your recent letter with which you enclosed correspondence from your constituent, Mrs. Olivia Felder of Rapid City, South Dakota, expressing her daughter's interest in presenting traditional Sioux gifts to the President at the Mount Rushmore celebration.

We appreciate being advised of Mrs. Daniels' interest in presenting these gifts to the President. In an effort to be of assistance, I have shared your letter with the appropriate White House officials for their prompt review and consideration.

Thank you again for your interest in writing.

With best regards,

Sincerely,

FREDERICK D. MCCLURE,
Assistant to the President for Legislative Affairs.

[From the Rapid City Journal, July 12, 1991]

MISTY DANIELS WAS HONORED

On July 3, 1991, my daughter Misty Daniels met with President and Mrs. Bush at Mount Rushmore. Misty is the only Persian Gulf War widow from South Dakota, and our family is very appreciative of the fact that the president took the time to meet with Misty and receive the gifts and honors our family wished to bestow on him.

We would like to thank all persons who helped arrange the meeting, especially Senator Larry Pressler.

Also, your July 6 article contains an error. Misty wasn't selected by the Oglala Sioux Tribe to present gifts. All gifts were furnished by the Daniels/Felder/Gonzales families to honor the president for his leadership in the Persian Gulf War.

We thought it would be a good idea if our tribe also participated. We asked OST president Harold Salway if the tribe would like Misty to present a tribal flag and welcoming letter to the president. President Salway agreed. The tribe furnished the flag.

OLIVIA FELDER.

RAPID CITY.

THREE EGYPTIAN CHRISTIANS RELEASED FROM PRISON

Mr. HELMS. Mr. President, during the past several months, a number of other Senators and I have conveyed our concern to the Government of Egypt regarding the arrest and imprisonment of three Egyptian Christians. I am pleased to report that I have been informed by Egypt's fine Ambassador to the United States, His Excellency Abdel Raouf El Reedy, that all three men were released from prison this past Saturday, and are now home with their families.

The release of these men was not an easy decision for the Egyptian Government. Extremist factions in Egypt, as elsewhere in the Middle East, are a constant threat to peace and stability in the region. I am aware of the difficulties facing President Mubarak in dealing with these factions and I applaud his sense of fairness on an issue of great concern to many Americans across the country.

President Mubarak has shown courageous leadership through his support of efforts to promote peace. One of the most highly praised of his actions was Egypt's enormous contribution to the allied effort to liberate Kuwait.

Mr. President, in September and October of last year, Moustafa Mohammad Said al-Sharkawi, Mohammad Hussein Ahmed Mohammad Selam, and Hassan Mohammad Ismail Mohammad were arrested and imprisoned. The precise nature of the charges against them is not clear to Western observers, but apparently they amount to an indictment for proselytizing for Christianity.

It is difficult for Westerners to understand why a country which believes in freedom of religion would choose to make proselytizing a crime. Freedom of religion is a fundamental human right which includes the freedom to express, to hear, and to accept religious beliefs, as well as the right to exercise and develop such beliefs openly and peacefully. Of course, in the context of Islamic countries these actions may be—and, in this instance, were—understood differently.

At hearings in December, the Egyptian courts directed that the men be released on grounds of lack of evidence. However, the Ministry of Interior resisted this action and the men remained in prison until Saturday.

Mr. President, when the facts of the cases came to my attention, I along with others urged the Government of Egypt to look into the issue and to safeguard the constitutional rights of all Egyptians to freedom of religion. Among those on the forefront of this effort were Senators LUGAR, DURENBERGER, and NICKLES who actively sought the release of these men in a spirit of friendship with Egypt.

Once again, Mr. President, I express my deep appreciation to President Mubarak, Ambassador El Reedy, and many others in the Egyptian Government who have exhibited a sense of fairness on a highly sensitive but important issue to many of us in this body.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,313th day that Terry Anderson has been held captive in Lebanon.

TIME TO BAN BULLETS

Mr. MOYNIHAN. Mr. President, I rise today to note the needless passing of another life due to a bullet. Specifically, a 9-millimeter bullet fired from a semiautomatic handgun by a 12-year-old, killing his 10-year-old cousin Michael Miller.

Yesterday, the same day young Michael Miller died in Arlington, VA, a 9-year-old in the Bronx fired a 9-millimeter out an open window of his home. The bullet narrowly missed a clerical worker across the street. Police found the gun holding 20 more bullets in its clip.

Children killing other children has become commonplace in our cities. Since March, a child has been shot and killed in New York City at a rate of about one a day, many times caught in crossfire. Last summer nine children under age 14 were killed by random gunfire or stray bullets. During the first half of 1990, there were 158 handgun assaults on children. This year the numbers will probably be higher.

Last week this Chamber passed S. 1241, establishing for the first time a national waiting period for the purchase of a handgun and banning certain assault weapons. I support those measures. But I also believe we ought look for additional ways to reduce the violence in our streets.

On January 14, I introduced S. 51, a bill to ban the importation, manufacture, and transfer of .25 caliber, .32 caliber and 9-millimeter ammunition. The .25 and .32 are common calibers for Saturday night specials, small and concealable weapons that are a favorite choice of street criminals. The 9-millimeter is used in semiautomatic weapons, which can fire dozens of rounds in seconds and are commonly used by drug dealers. These weapons have no hunting purpose.

If we are serious about reducing crime—if we are concerned about children killing children—ammunition to these guns ought be banned. After all, guns don't kill people; bullets do.

We all like solving a problem, eliminating it altogether. Crime is one problem not emenable to a complete solution. A waiting period would reduce the number of dangerous individuals with access to guns, but not cut off the supply like a spigot. A ban on assault weapons would eliminate some of the deadliest guns, but leave others available. Likewise, a ban on .25 caliber, .32 caliber, and 9-millimeter ammunition would not eliminate street crimes, but it would reduce them. And every Michael Miller we can save is worth the effort.

I urge my colleagues to cosponsor S. 51, the Violent Crime Prevention Act of 1991, and ask unanimous consent that articles from the Washington Post and New York Times be printed in the RECORD at this point.

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

[From the Washington Post, July 16, 1991]

VA. YOUTH, 12, FATALLY SHOOTS COUSIN

(By Stephanie Griffith)

A 12-year-old Arlington youth shot and killed his 10-year-old cousin Sunday night, and police are investigating the circumstances of the shooting.

Police said yestereday that they found the body of the 10-year-old, who had been shot once in the head with a semiautomatic handgun, lying in the hallway of the basement apartment where the 12-year-old lives with his mother and two younger sisters.

Investigators said the youth's mother had left the children in the care of a 13-year-old babysitter when the shooting occurred about 10:30 p.m. in the 1100 block of S. 18th Street.

Police declined to release the identities of either child pending further investigation of the incident. However, sources identified the victim as Michael Miller, who lived out of town and was visiting the family of the 12-year-old.

"The matter is under investigation," said Arlington Commonwealth's Attorney Helen F. Fahey. "No decision has been made as of yet as to whether or not there will be any charges."

Police officials said the 12-year-old is at home with his mother and that a social worker from the Department of Human Services has been assigned to help with the trauma of the shooting.

A neighbor and family friend, who asked not to be identified, said the babysitter and the 12-year-old ran over to her home to ask for assistance after the shooting.

"It was accidental," said the neighbor, who was the first adult on the scene. "They were playing with a gun. The clip was in it so he thought it wasn't loaded."

By the time she arrived at the apartment, the neighbor said, the 10-year-old was unconscious and bleeding profusely, "I prayed over him," said the woman, whose three children are occasional playmates of the 12-year-old. "I prayed to God that he wouldn't die. I tried to take his pulse but I was pulsing so hard, I couldn't tell if it was my own pulse or his," she said as her eyes filled with tears.

The 10-year-old was taken by helicopter to Children's Hospital in Washington, where he died at 11:37 p.m. Sunday, according to a hospital spokeswoman.

The shooting occurred in the sedate Aurora Hills neighborhood in South Arlington, a close-knit, middle-class community with tree-lined streets and wood-frame houses.

Kay DeMarr, 37, whose children frequently played with the 12-year-old, described the youth as quiet and shy.

"He's the kind of kid who, if you said you did a terrible thing, he'd be devastated," DeMarr said. "He spends a lot of time in the Rec [Recreation Center] and a lot of time with the babysitter."

DeMarr described the 12-year-old as "a good kid. They're both good kids. It was a tragic accident."

The neighbor who came to the aid of the 12-year-old after the shooting said fascination with firearms has become common among children in the neighborhood.

"Part of it started when the [Persian Gulf] war broke out. All the kids around here are very interested in weapons," she said. "When my kids come with me to BEST [general merchandise store], they always go straight to the gun rack."

[From the New York Times, July 16, 1991]

BOY, 9, CHARGED AFTER SHOOTING AT BRONX OFFICE—CHILD LEARNED GUNPLAY WHILE WATCHING TV

(By John T. McQuiston)

A 9-year-old boy shoved a fully loaded ammunition clip into a heavy 9-millimeter gun he found in his Bronx apartment yesterday, pointed it out the window and fired at a nearby office building, narrowly missing a clerical worker, the police said.

The boy, who later told the police he had learned how to load the gun by watching television, fired only one shot at the building at 150 Willow Avenue, in the Mott Haven section. When the police recovered the gun, they found 20 more bullets in the clip and one in the gun's firing chamber.

The single shot nicked a window frame in the office building, passed by a worker's head and then went through a metal cabinet and became embedded in a wall, the police said.

When officers from the 40th Precinct arrived at the office building to investigate the shooting, they looked across the way and noticed the boy peering from an open window on the second floor a a three-family house at 745 East 136th Street.

Officer Andrew McInnis, a police spokesman, said the boy told the police that he had found the gun, a six pound Cobray automatic, in a bedroom where it had been left by a man who had been living with his aunt. Officer McInnis said the police were seeking the man for questioning.

When the boy, who was home alone, put the clip in the gun and squeezed the trigger, "he was just playing," Sgt. John O'Malley of the 40th Precinct told The Associated Press. "He's a kid. He's 9 years old. He's scared."

After he fired the shot, the boy removed the clip from the gun, but unknowingly left one bullet in the gun's chamber.

He could have killed himself," Sergeant O'Malley said.

Officer McInnis said the boy lived in the three-family house with his grandmother, Maria Garcia. He said the boy was charged as a juvenile delinquent and had been referred to Family Court.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

TITLE X PREGNANCY COUNSELING ACT

Mr. MITCHELL. Mr. President, pursuant to a previous order granting me the authority to proceed to Calendar No. 125, S. 323, the gag rule repeal bill, and the following consultation with the Republican leader, I now exercise my right to call up the bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

AMENDMENT NO. 753

(Purpose: To ensure that certain information, nondirective counseling or referral services regarding pregnancies is available under programs receiving assistance under title X of the Public Health Service Act and to clarify the circumstances under which such information, nondirective counseling or referral services must be provided)

Mr. CHAFEE. Mr. President, I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 753.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

"(a) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that pregnant women receiving services from projects funded under this title are provided with information and nondirective counseling services, and referral services upon request, concerning all legal and medical options regarding their pregnancies. Women requesting information or nondirective counseling under this section regarding the options for the management of an unintended pregancy shall be provided with nondirective counseling, and referral on request, concerning alternative courses of action that may include—

"(1) prenatal care and delivery; and

"(2) infant care, foster care, or adopotion services; and

"(3) prgnancy termination.

If, in the case of a woman requesting such information and nondirective counseling, an ectopic pregnancy or other immediate threat to the women's health is suspected, such woman must be referred for immediate diagnosis and therapy.

"(b) EXEMPTION FOR RELIGIOUS BELIEFS OR MORAL CONVICTIONS.—

"(1) IN GENERAL.—No project, or individual employed or associated with such project, may decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), except where the provision of such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the project or individual.

"(2) FACILITIES AND PERSONNEL.—A project that, as provided for in paragraph (1), declines to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), may not be required to—

"(A) make its facilities available for the provision of such information, nondirective counseling or referral services; or

"(B) provide any personnel for the provision of such information, nondirective counseling or referral services.

"(c) REQUIREMENT OF REFERRAL.—If a project or individual is exempt pursuant to subseciton (b) from the requirement of providing information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), such project or individual shall advise the patient of that fact and refer such patient to another individual within the same project, or if another such individual is unavailable, to another project, that provides such information, nondirective counseling or referral services.

"(d) PROHIBITION AGAINST DISCRIMINATION.—A project receiving assistance under this title after the date of enactment of this section shall not—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel; or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel;

because such physician or other health care personnel has provided information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2), or (3) of subsection (a) or refused to provide such information, nondirective counseling or referral services on the grounds that such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the physician or health care personnel, or because of the religious beliefs or moral convictions of the physician or health care personnel with respect to such information, nondirective counseling or referral services.

"(e) NONTERMINATION OF GRANT.—No project may be denied funding, or be terminated, under this title based on the decision of such project to provide or decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a). The burden of proof shall be on the entity or official making the determination to deny funding or terminate the project to demonstrate that such denial or termination is not based on the decision by such project to provide or decline to provide such information, nondirective counseling or referral services.

"(f) ACCESSIBILITY OF SERVICE.—A grantee under this title shall ensure that information, nondirective counseling or referral services on each of the subjects described in paragraphs (1), (2) or (3) of subsection (a) is available at an adequate number of projects assisted by such grantee under the grant within the geographic area served, or otherwise provide access to such information, nondirective counseling or referral services at another entity within the grantee's geographic area which will provide such services under the same financial eligibility criteria as projects assisted under this title.

"(g) DEFINITION.—For purposes of this section, the term 'project' means an entity that provides family planning services with funds received under this title under a negotiated, written agreement with a grantee.".

Mr. CHAFEE. Mr. President, the legislation before us today is called the Title X Pregnancy Counseling Act of 1991.

When I originally introduced S. 323, it required that title X funded clinics provide complete information to pregnant women, upon request, on all legal and medical options for the management of the pregnancy. That language was similar to an amendment I proposed last year and which passed by a vote of 62 to 36. Some of my colleagues raised concerns that this legislation would require individuals and projects to talk about pregnancy termination against their will. In response to these concerns, I have modified S. 323 and the modification is before us today in the nature of a substitute. This substitute legislation simply allows federally funded health clinics to provide pregnant women with complete information about their options when asked for such information. You may ask why we have such a bill before us. We all assume that this is standard procedure, that doctors provide their patients with all potential treatments and medical options available, even if the doctor would not choose certain treatments for himself.

In fact, Mr. President, this is the standard procedure for those of us who can afford a private physician. But for the millions of women in American who do not have enough money to pay for health care services, there is a new and different standard. Those low-income women will only receive information which is censored by the Government. The Government has determined it has this right because the Government is paying for those services. And the Supreme Court agrees, stating in its opinion that the woman is left "with the same choices as if the Government had chosen not to fund family planning services at all." In light of the fact that the goal of the title X program was to expand, not limit access to reproductive health care services, it seems that the Court is out of step with Congress' intent.

Let us review the history of this issue. Title X of the Public Health Service was enacted in 1970 with a stated goal of providing a broad range of acceptable and effective family planning methods and services for women who otherwise have little or no access to such services. Title X authorizes project grants for public and private nonprofit organizations for the provision of family planning services to all who want and need such services, with priority given to low-income persons. The title X program serves nearly 5 million women every year and is the only Federal program targeted specifically to family planning.

Since its enactment in 1970, title X has been prohibited from using its funds to pay for pregnancy termination services. It has been certified by the HHS and by the General Accounting Office that this prohibition is being adhered to, that title X funds are not being used to pay for pregnancy termination. My legislation would not change this provision in any way.

For the first 18 years of the program's operation, the policy with respect to pregnancy counseling was to inform women, at their request, of all legal and medical options for the management of an unintended pregnancy. Guidelines issued by HHS in 1981 provided very clear direction on this issue. They read as follows:

> Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended pregnancy are to be given non-directive counseling on the following alternative courses of action, and referral upon request: Prenatal care and delivery; Infant care, foster care or adoption; and pregnancy termination.

So, for 18 years, this is how the program worked. A poor pregnant woman would come in to a title X clinic, she would ask what her options were and the doctor or counselor in the clinic would provide her with nondirective information about all her legal and medical options. What does nondirective mean? It means that they would not advocate for one option over another. They would give the woman her options and let her make her own decision about what is right for her particular situation. Standard medical procedure.

In 1988, HHS decided that this policy should be reversed because some people do not agree with pregnancy termination, even though it is a legal option in our country. HHS issued new regulations that prohibit clinics receiving title X funds from providing such nondirective counseling on pregnancy termination. Instead, a woman with an unintended pregnancy who visits a clinic that receives title X funds is to be referred only for prenatal care. And if she asks about pregnancy termination she is to be told that "the project does not consider pregnancy termination an appropriate method of family planning and therefore does not counsel or refer for pregnancy termination." The doctor is then to tell the patient that they can help her obtain prenatal care and social services, give her a list of providers "that promote the welfare of the mother and the unborn child" and send her on her way.

This is not nondirective counseling. This is forcing a woman to choose one particular option because some people do not agree with the other legal and medical options. And what do we do about the incident I recently heard: A poor woman found herself pregnant with triplets in rural Georgia. She was a drug user and had several other children and recently discovered that she was infected with the AIDS virus. When she went to receive care in rural Georgia, she was sent to Grady Memorial Hospital in Atlanta, a recipient of title X funds. She was told that because the Supreme Court had just upheld these regulations, they were afraid to provide her with any counseling, and sent her on her way. It seems to me, Mr. President, that the least we could do for this woman is tell her what her options are.

When these regulations went into effect in March of 1988, lawsuits against HHS were filed in Federal district courts in Colorado, Massachusetts, and New York. Judges in the Colorado and Massachusetts cases found the rules to be unconstitutional and issued injunctions protecting plaintiffs across the country. However, the regulations were upheld in the New York Second Circuit. As a result of this split, the Supreme Court agreed to hear arguments on the case. In a 5-4 decision, the Supreme Court held that congressional intent with respect to this issue is ambiguous, and thus upheld the regulations.

Last year, in a 62-36 vote, the Senate voted against the regulations when I offered my original bill in the form of an amendment to the title X reauthorization bill. Unfortunately, the Senate failed to take action on the underlying bill before we adjourned last year. Nevertheless, it seems to me that this vote was a strong indication of Congress' intent. But, clearly, we must act again, and now is the time for that action.

Mr. President, these regulations are bad policy for a number of reasons. First, they conflict with the professional ethics of major medical organizations, including the American Medical Association and the American College of Obstetricians and Gynecologists, which insist on the patient's right to full information. The AMA's policy states that a "physician should counsel his or her patient on the full range of medical treatment options appropriate for a given medical condition. We believe each patient is entitled to full and fair disclosure of all relevant information and that such disclosure is essential for the patient to make an informed decision."

On June 13, 21 national medical and nursing organizations held a press conference here in Washington calling for the administration to rescind these regulations. The AMA has remained neutral on the issue of abortion rights. Yet in a July 15 letter to me, the AMA stated that they support the substitute before us today because "it will ensure that physicians are free to counsel their patients on the full range of medical information and options, and that patients are able to exercise their right to make informed health care decisions. The amendment is essential to preserve the integrity of the physician/patient relationship."

Mr. President, I ask that the full text of this letter and the list of the medi-

cal organizations opposed to the gag rule be printed in the CONGRESSIONAL RECORD.

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

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 15, 1991.

Re Amendment to S. 323.

Hon. JOHN H. CHAFEE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: The American Medical Association (AMA) strongly supports your continuing efforts to overturn the Title X "gag rule," and prevent unwarranted government interference in the physician/patient relationship within the federal family planning program.

The amendment in the nature of a substitute that you will offer to S. 323 will ensure that physicians are free to counsel their patients on the full range of medical information and options, and that patients are able to exercise their right to make informed health care decisions. The amendment is essential to preserve the integrity of the physician/patient relationship.

The AMA commends you for your leadership in this vital matter.

Sincerely,

JAMES S. TODD, MD.

Mr. CHAFEE. Second, the regulations are ill-conceived because they create a two-tiered system of health care where low-income women receive more limited information and care than women who can afford private medical services. What these regulations do is say to wealthy women, you go in this line because there you can pay for all the information you need. But you poor women, you go over in another line. You have no money, therefore, the Government will help you. But, because the Government is paying, we will decide what you can and cannot know about your legal and medical options.

Now some people may say this is fair. After all, if the Government is paying for these services, the Government has a right to decide what those services should include. The Supreme Court went even a step further, stating in its majority opinion that the "constraints on such a woman's ability to enjoy the full range of constitutionally protected freedom of choice are the product not of government restrictions, but of her indigency." And what does this mean, Mr. President? It means that it's not the Government's fault that these women don't get quality medical care. It is their own fault because they are poor.

In response to this harsh and mean-spirited statement, Mr. President, I would say that, while some may believe that the Government has no obligation to improve the welfare of its citizens, it certainly should not be a party to making matters worse. These regulations do make matters worse.

Third, the regulations place title X projects in the untenable position of having to choose between keeping their funds and complying with the Government's regulations, or foregoing the funds and being unable to provide services to the millions of low-income women who need them. Further, while title X funds often comprise a relatively small percentage of a clinic's total revenues, the regulations prohibit family planning counselors and physicians from discussing pregnancy termination as a legal and medical option with all of the clinic's patients, even those who are paying for their services.

In Rhode Island, for example, Thundermist Community Health Center receives approximately $27,000 in title X funds. The total number of family planning patients served annually at Thundermist Health Center is 1,600. Of those 1,600 patients, only 216 are subsidized by title X. Nevertheless, the new regulations would force Thundermist to refrain from providing information regarding all legal and medical options to all 1,600 patients, even though 86 percent are non-title X patients.

Fourth, the regulations place health care professionals at risk for medical malpractice. Physicians have already been held liable for failing to provide complete information to a patient about his or her medical condition and medical options. Imposing the so-called gag rule would undoubtedly foster unnecessary litigation.

For all of these reasons, I have introduced regulation to overturn these regulations, and this is the measure before us today. Some of my colleagues have expressed concerns about this bill, mainly that S. 323 as introduced would require clinics to counsel on pregnancy termination. As a result, I have revised this language, and it is before us today in the nature of a substitute to my original bill. This new bill allows, rather than directs, title X funded clinics to counsel on all legal and medical options, including pregnancy termination. If a clinic, or an individual in a clinic, for moral or religious reasons does not wish to counsel on one particular option, they will not be required to do so. But the patient must be informed of this fact and referred to another provider which will give her complete options counseling.

My bill will ensure that the Department of Health and Human Services under this administration cannot revoke funding to organizations solely for the reason that they provide complete pregnancy options counseling, including pregnancy termination. And it will ensure that the Department of Health and Human Services under a future administration will not revoke funding because a project may want to provide counseling just for natural family planning. It is a balanced and fair compromise.

Finally, Mr. President, let me say that this is not about abortion rights. That is already an established legal right in our country that is protected by the Constitution. This is an issue about health care. The question before us is not whether you support abortion rights. The question is whether you believe that low-income women are entitled to the same quality of care as women who can afford private care. I believe the answer is "yes."

If I might, I would like to submit a list of those medical and nursing organizations opposed to the gag rule.

Mr. President, I ask unanimous consent to have that printed in the RECORD.

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

MEDICAL AND NURSING ORGANIZATIONS OPPOSED TO THE GAG RULE

Ambulatory Pediatric Association.
American Academy of Family Physicians.
American Academy of Nurse Practitioners.
American Academy of Pediatrics.
American College of Nurse Midwives.
The American College of Obstetricians and Gynecologists.
American Fertility Society.
American Medical Women's Association.
American Nurses Association.
American Public Health Association.
American Psychiatric Association.
Association of Professors of Gynecology and Obstetrics.
Association of Reproductive Health Professionals.
Council on Resident Education in Obstetrics and Gynecology.
NAACOG: The Organization of Obstetric, Gynecologic & Neonatal Nurses.
National Association of Community Health Centers.
National Association of Neonatal Nurses.
National Association of Nurse Practitioners in Reproductive Health.
National Conference of Gerontological Nurse Practitioners.
National Organization of Nurse Practitioner Faculties.
Society for Adolescent Medicine.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

PRIVILEGE OF THE FLOOR—S. 323

Mr. KENNEDY. Mr. President, I ask unanimous consent that during the consideration of S. 323, the Title X Pregnancy Counseling Act, Emily Vantassel, a Georgetown women's law and public policy fellow on my staff, be accorded the privilege of the floor.

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

Mr. KENNEDY. Mr. President, I support S. 323, the Title X Pregnancy Counseling Act of 1991, sponsored by Senator CHAFEE and many other Senators on both sides of the aisle.

The legislation will overturn the controversial Reagan administration gag rule regulations under title X that deny certain basic information about abortion to low-income women.

If these regulations are enforced, patients who go to a federally funded facility will be unfairly denied full information about their health care.

In addition, if these regulations are enforced, doctors and medical person-

nel across the country will also be denied the right to practice medicine according to their professional standards.

That issue is at the heart of this debate, and it is why the regulations are called the gag rule. The Federal Government is trying to tell doctors and other health professionals what they can and cannot say to their patients.

In effect, if we permit these regulations to stand, Congress will be practicing medicine without a license.

Since its enactment in 1970, title X has prohibited the use of Federal family planning funds for abortion.

Abortion is not the issue here. Free speech is. Congress agreed that Federal funds should not be used to perform abortions. But Congress never intended to gag physicians or stop them from talking about abortion.

It is the height of hypocrisy for the Bush administration to force doctors to violate their hippocratic oath.

Congress also never intended to deny pregnant women information about the entire range of choices they face, including their constitutional right to abortion.

The current regulations are a blatant attempt to impose the administration's own ideology on the 5 million American women who receive title X services—and to prevent doctors from providing competent advice on their patients' health care needs.

The gag rule regulations were issued in 1988. They were immediately challenged in court, and their enforcement has been suspended ever since.

Last month, the Supreme Court upheld the regulations by a 5-4 decision in Rust versus Sullivan. That ruling, however, barely touched the merits of the regulations.

It merely said that the Congress, of course, is free to revise them or repeal them.

In his eloquent dissent, Justice Blackmun summarized the damaging impact of the Rust decision on first amendment freedoms. As he wrote:

> The majority professes to leave undisturbed the free speech protections upon which our society has come to rely, but one must wonder what force the first amendment retains if it is read to countenance the deliberate manipulation by the Government of the dialogue between a woman and her physician.

The gag rule regulations deny women the right to receive the information they need in order to make informed decisions about their health, their lives and their families.

The relationship between a doctor and a patient should be protected from intervention by the Government. Patients deserve to have full confidence that the information they receive is based on the professional judgment of their doctor, not the political opinion of their Congressman. The gag rule violates that basic trust.

Major medical organizations such as the American Medical Association, the American College of Obstetricians and Gynecologists, the American Nurses Association, and leading public health schools across the country have expressed their opposition to these regulations.

And for excellent reasons.

Physicians must be free to treat patients as they see fit, in accordance with their professional standards and without interference from politicians. Yet these regulations would deny them the basic right to practice their profession as they see fit.

For years, Congress has worked to provide access for low-income Americans to adequate health care. These regulations are a flagrant attempt to undo some of that progress.

What we are creating with these regulations is a two-tiered health care system, in which low-income women receive information that has been approved by the Government—while women with the means to obtain private care are able to get complete information without restrictions.

Finally, time is of the essence. Within the next month, title X grantees will be faced with an unconscionable decision.

They can accept Federal funds and restrict the information they give out. Or they can give up the Federal funds and cut back on their overall services.

For many of the 5 million low-income women who receive health care from hospitals and clinics, title X is their sole source of care. Poverty has handed them but one choice—to accept the medical care they receive from the title X facility, or obtain no medical care at all.

Title X has a proud history as one of the most successful and cost-effective health care programs ever enacted. It saves $4.40 for every $1 spent.

Since it was enacted, it has saved billions of dollars that would otherwise have been spent on medical care, welfare, and other social services.

By protecting the integrity of title X, we protect the right of American women to receive the information they need to make informed decisions about their health care and their future. We protect the fundamental right of American physicians to practice their profession, free of Government intrusion. And we protect the Bill of Rights. I urge the Senate to repeal the gag rule regulations.

Mr. ADAMS. Mr. President, I rise today to voice my strong support for S. 323, Senator CHAFEE's bill, and the substitute which has been offered this morning as an amendment, in order to overturn the regulations issued by the Reagan administration in 1988 to prohibit family planning counselors from discussing abortion with women who request information about terminating an unwanted pregnancy.

Last month, for reasons that have much to do with antiabortion ideology and nothing to do with reality, the Supreme Court upheld an odious gag rule. This gag rule has everything to do with the issue of free speech and proper medical practice and nothing to do with whether or not one may or may not believe in abortion or choice. When the Supreme Court handed down the Rust decision, I was outraged. I am still outraged, Mr. President, because it is clear that women can no longer count on the highest court of the land to protect their rights, to give them full and fair information. That is a basic right, a basic bit of human decency to which anyone in a civilized country should expect that someone in a profession, someone who is a friend, someone who is not an enemy will give you full and fair information and tell you the truth.

Any woman receiving services in a title X clinic, whether she pays or not, will be denied full information. Even if she is paying for this, Mr. President, she will be denied full information on her medical options from her doctor.

Family planning counselors, under the gag rule of these regulations, which we are trying to overturn and which we will overturn today, are prohibited from telling a woman about abortion or referring her to another medical facility where abortion information or services are provided. If she is pregnant and asks about abortion, the doctor is permitted only one response under these regulation, and that response is this facility does not consider abortion an appropriate method of family planning. That is what the doctor says.

No one on our side has ever said abortion was a method of family planning. No doctor who testified ever stated that abortion was a method of family planning. They are not telling people that you go out and get pregnant and I will give you an abortion. That has never been done. That is not the point. That is why I am hopeful that this bill will pass overwhelmingly. I am hopeful that it will almost be unanimous because a facility under these regulations we are trying to overturn must state that abortion is not an appropriate method for the woman at all, even if the woman is a victim of rape or incest. They provide no information, no counseling on abortion. It is true even if the pregnancy may be life threatening, and that is what happens, Mr. President. That is what we are talking about in these cases.

These clinics treat an enormous number of women and come in asking for advice and find that they are pregnant, and at that point, their medical information under the gag rule is cut off. What a tragic occurrence. This is just words; this is not the performance of any abortion. This is to tell a person under the free speech clause of the Constitution and under the ethics of the medical profession what the woman's options are so that she may choose.

What a dreadful thing for a society to not tell people the full truth. It is almost like Orwell, and it is even worse if you direct that person, that woman who is standing before you, into something that is not sound medical practice.

This is true even if the woman is paying for the medical services, though I want to stress that many, many of the young women particularly and from minorities in particular who appear in these clinics, that is the only place they get any advice.

Mr. President, title X is one of our most effective health prevention programs. It is a good program for health reasons, for the prevention of sickness or unwanted pregnancies or injury to a woman. The gag rule makes a mockery of that. By upholding the regulations, the Court, without a moment's hesitation, relegated poor women to a second-rate health care with the snapping of their fingers. This was not necessary because, for the last 20 years, low-income women across this country have received essential medical care they just otherwise could not get.

Almost 5 million women a year receive services, counseling and otherwise. These women are typically young and poor. Eighty percent have incomes below 150 percent of poverty. For these women, the title X funded clinic was the only source of family planning services they got during the year. It should come as no surprise then that for many women, family planning clinics are not only critical resources for contraceptive information and services, but they are their only entry point for very basic health care services.

The question today is quite simple: Are we ready to tell the women of this country if they are poor or have no access to health care services, other than a title X clinic, they will receive by law selective or limited health care services that are legal and are available to women who can afford them or who pay for them? Are we going to let doctors tell women the truth or are we going to force them to violate their ethical and legal obligations as physicians to provide full information?

I ask my colleagues, as a law professor asked the Labor Committee to do at a recent hearing on medical implications of the gag rule to poor women, imagine this set of regulations and restrictions in any other medical or professional context. Can you imagine a cancer counseling program that forbade counselors to tell their patients about the option of chemotherapy or radiation, or a legal srvices lawyer who is prohibited from telling his or her client about the option of divorce or of separation?

Mr. President, I cannot, because the principle of nondirective, neutral counseling is so central to our tradition in this country, both to the professions and to simply good practice among decent people. It governs all professions: doctors, lawyers, mediators, insurance brokers, even real estate salesmen.

For the last 20 years, this principle has been the defining element of the family planning program. Family planning counselors are required by their professional creed as well as by Government guidelines, to provide full information to the person they are counseling and not—I stress the word "not"—to direct them in any particular manner. This is the way it should be. The Chafee bill would simply codify the principle of nondirective options and nondirective counseling in the statue for title X family planning services.

The chorus of organizations against these regulations is strong and impressive. Thirty-six State governments have said do not do what the Supreme Court has done with these regulations. Seventy-eight national organizations, including major medical organizations such as the American College of Physicians, the American Academy of Pediatrics, the American Public Health Association, the American Medical Association, the American College of Obstetricians and gynecologists, and all 25 schools of public health are opposed to the gag rule. These groups are opposed to the gag rule because these regulations represent an unprecedented and unacceptable Government interference and regulation of good medical practice.

The American College of Physicians said it best when they wrote the President earlier this month: "These regulations contravene ethical medical practice * * * compromise a patient's legal right to give informed consent," and "imperil the health of American women."

Let us heed the advice of the medical community and the women of this country and overturn the gag rule once and for all. I urge my colleagues to vote in favor of the Chafee bill and the substitute that he has offered and to reject all other weakening amendments.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I thank the distinguished Senator from Washington for his helpful remarks.

Mr. President, yesterday in Minnesota at a family planning clinic in Minneapolis there was an extraordinary gathering of physicians and health care professionals from all around the State, from northern Minnesota, from southern Minnesota, representing so many different views on so many different subjects, but not on the subject they came to discuss. On this subject we stood united. We stood united in opposition to a law that must fall, the so-called gag rule. Some were divided on the issue of abortion, but they stood united in opposition to the gag rule. They stood united on the issue of communication between physicians and patients.

Mr. President, the fact that these medical professions from all over the State, from so many different backgrounds, came together in this remarkable assembly in Minneapolis yesterday is testament to the gravity and the consequence of the issue that we face today in the Senate. They came from the Minnesota Medical Association; they came from the Minnesota Nurses Association; they came from Planned Parenthood; they came from the Zumbro Valley Medical Society; they came from the University of Minnesota; they came from the Bethesda Family Physicians in St. Paul; and they came from the Women's Health Center in Duluth.

This was a union of concerned medical professions acting not out of their economic self-interest but instead staking out a powerful ethical stand on behalf of their patients, on behalf of their women patients.

They spoke of the ethical precepts from which the foundation of conscientious medicine is formed. They said that withholding information from patients was comparable to lying, and they said that they would refuse to lie to their patients.

They said that they were offended that physicians were asked to be an agent or tool for someone's political agenda. They said that it was unconscionable to tell physicians to fail to give patients full information. They said this rule would promote a lack of confidence in the medical profession. They wondered, if we let this rule stand, what next.

They read a statement from the board of the Minnesota Medical Association. First, the board of the Minnesota Medical Association indicated its support of the following position of the American Medical Association. Mr. President, I quote:

> The American Medical Association does not view abortion as a method of family planning. However, the regulations upheld by the United States Supreme Court have impact beyond planning prior to pregnancy. The regulations prohibit a physician from counseling a pregnant woman even in situations where the pregnancy presents health risks, often very serious risks, and termination of the pregnancy is medically indicated. Some of those indications in which pregnancy presents health risks include cancer, diabetes, severe cardiac conditions, and AIDS. To this extent, the American Medical Association objects to the regulations both from an ethical and a liability standpoint.

The Minnesota Medical Association went further stating, Mr. President:

> The Minnesota Medical Association strongly believes that in the interests of excellent medical care, a physician should be free to provide the patient all information needed for the patient to receive the most

medically appropriate care and therefore urges its members to take action to overturn any rules or legislation that restricts free speech and communication between the physician and the patient.

Mr. President, let us be clear about this issue and about this debate in personal terms. Let us consider the impact of the gag rule on the women, often young women, young girls who seek counseling.

Many of the women who seek medical advice in title X clinics are below the poverty level. Many of them are frightened. Many of them are in crisis. Many of them are pregnant because of an act of violence or force. These women come to the only place they know to go to get advice. The gag rule tells physicians and counselors to deceive these women when they are the most vulnerable, the most desperate, and the most needy of aid and counseling.

For women in crisis, the gag rule tells our medical physicians to conceal the truth. The gag rule tells our doctors to provide inadequate and incomplete medical advice, to violate all standards, all standards of medical ethics.

The rule violates a woman's fundamental right to self-determination and, worse yet, the effect of this gag rule is targeted on the poor and the most vulnerable and the most helpless women in our society.

Mr. President, it should be pointed out to everyone in this gallery and to the people in our country that title X is the only Federal program targeted specifically to family planning. It was designed to serve low-income women, and the gag rule creates a double standard for medical care. For women who can afford private medical care, they go in to see their doctors and they receive full information. Women who cannot afford private medical care are given something less than the truth. That is what this gag rule does. It gives women without the income something less than the truth. It forces doctors not to provide women with the medical truth.

Mr. President, this gag rule further segregates our society by class and by income. Mr. President, this gag rule does not create a gentler and a kinder society. This gag rule creates a meaner and a more divided society, and that is not the direction that we want to go in.

The gag rule denies poor women the truth. The gag rule denies poor women full information. The gag rule denies women the right to make informed choices about the most personal decision that a woman would ever have to make in her life.

Mr. President, we cannot allow this rule to stand. We cannot allow the recent Supreme Court decision Rust versus Sullivan to stand. We must act swiftly and we must act decisively to enact this bill and to overturn the gag rule.

TITLE X PREGNANCY COUNSELING ACT OF 1991

Mr. PACKWOOD. Mr. President, I rise as a cosponsor of the Pregnancy Counseling Act of 1991, along with Senator CHAFEE and numerous others, both Republican and Democrat.

With this legislation we offer the Senate the opportunity to reaffirm its rejection of the title X gag rule, which denies women who rely on title X clinics for health care their right to receive full and uncensored information about all of their available medical alternatives.

Title X was enacted by Congress in 1970, for the commendable purpose of providing family planning services, primarily to low-income women. It has been tremendously successful, providing millions of women not only with reproductive health services, but in many instances with basic care in areas where no other provider was available.

For 18 years, until 1988, health care professionals in title X programs were able to provide the quality and type of counseling which is not only a patient's basic right, but which organizations such as the American Medical Association state in their guidelines that physicians should give. Prior to 1988, women diagnosed as pregnant in title X clinics were offered information and referrals on all their options including: First, carrying the pregnancy to term; second, keeping the child, adoption, and third, terminating the pregnancy. That policy was codified in the original Health and Human Servcies guidelines for title X.

Then in 1988, after Congress rejected numerous attempts to bring down or significantly weaken title X, Health and Human Services implemented new regulations that would hamstring medical professionals providing title X services. Although title X funds have always been prohibited from being used to pay for abortions, and have never been so used, Health and Human Services' new rules explicitly forbid doctors, nurses, or any other employee in a title X clinic from providing information, counseling, or referrals concerning abortion to women. In fact, these rules do not allow such communication even if the woman asks. These regulations came to be known with good reason as the gag rule.

As the Senate debates the legislation before us, there may be attempts to argue that these are not gag rules at all, and that it is permissible for a provider under the regulations to discuss abortion. Let me say that I understand why the proponents of these regulations dislike the term gag rule, because it graphically describes the censorship with which we are dealing here. But there is no doubt that the regulations proscribe communication about abortion. Let me quote from the Federal Register of February 2, 1988, which contains the final draft of the rules:

> 42 CFR (Code of Federal Regulations), section 59.8: Prohibition on Counseling and Referral for Abortion Services * * * (a)(1) A title X project may not provide counseling concerning the use of abortion as a method of family planning or provide referral for abortion as a method of family planning * * *.

And then examples are provided in the rules as to how a clinic should handle inquiries about abortion:

> A pregnant woman requests information on abortion and asks the title X project to refer her to an abortion provider. The project commissioner tells her that the project does not consider abortion an appropriate method of family planning and therefore does not counsel or refer for abortion. The counselor further tells the client that the project can help her to obtain prenatal care and necessary social services, and provides her with a list of such providers, from which the client may choose. Such actions are consistent with (the rule).

If that example does not describe censorship of information about abortion, I don't know what would. So please don't be misled in this debate today about what the gag rules do: They do prevent medical personnel from giving abortion information, and it is important to note that no exception is made if the woman is a self-paying patient who just happens to obtain her health care from a provider who also receives title X funds. So we are not talking about only low-income women here.

Mr. President, these gag rules are a travesty, allowing the Federal Government to intervene in an unwarranted and unprecedented way in the physician-patient relationship. Courts have found that doctors who fail to share medical information with patients commit malpractice. The American Medical Association guidelines direct physicians to give complete information. Health and Human Services, the Federal agency charged with the health and well-being of Americans, should be loathe to tie the hands of medical providers in this way.

The gag rules were successfully challenged in Federal courts in Colorado and Massachusetts, but upheld in New York. Because of this split in the courts, the Supreme Court agreed to review the matter in a consolidated appeal, Rust versus Sullivan. On May 23, 1991, the Court upheld the regulations. I, for one, was surprised by the Court's ruling. There are many legal issues on which the Court has developed a fine body of law. Unfortunately, the whole area dealing with the right to choose has not, in the recent past, been one of them. I am in great disagreement with the ruling in Rust. I believe the Court overlooked or avoided critical legal issues. Notwithstanding the very serious effect these regulations have on patient rights and physicians' ethical duties, the first amendment implications alone are sufficient reason to override

them. The chill these prohibitions place on communication between medical provider and patient is devastating.

In spite of what many of us see as its failure to address the critical constitutional issues in Rust, the Court was definite about one thing: Congress must act to make it clear that we do not intend that medical practioners' speech rights be violated, or that participants in a federally funded health care program be given less than complete medical information. Fortunately, this should not be a difficult issue for the Senate. It is not an issue of first impression for us. On September 25, 1990, we voted 62 to 36 for Senator CHAFEE's amendment to the title X reauthorization bill to overturn the gag rule.

The legislation which we offer today, like the amendment which the Senate passed last year, would restore the situation to what it was for nearly 20 years prior to 1988. Medical professionals in title X clinics would be free to provide the same quality of service to women that other medical providers do: Information and referrals on abortion for those women who want such information. Our legislation would have no effect whatsoever on the prohibition against title X clinics providing abortions. Government funding of abortion is a separate issue, and this legislation does not address it.

In addition to overturning the gag rule, the legislation which we offer today does one important additional thing: It clarifies that title X clinics and medical personnel having a moral or religious objection to abortion are not obligated to provide information on it. They need only refer the woman seeking information to another clinic or another health care person within the same clinic who would provide the information. This is an important codification of current practice, and by spelling it out in this legislation we ensure protection for the rights of title X clinics and their personnel.

Mr. President, what is at stake today as we consider the title X Pregnancy Counseling Act is the integrity of the physician-patient relationship and the first amendment rights of medical professionals. I ask for my colleagues' support of this very important legislation.

Mr. President, it is important that we understand what we face here. This is not a constitutional issue. This is not the Supreme Court interpreting the Constitution one way or the other and prohibiting Congress from enacting unless we want to amend the Constitution. Although a bit later in my remarks I will make an analogy to another constitutional right where I find the Court has gone in a different direction.

This is barely even a statutory issue because from 1970 to 1988 under the statute as it now exists family planning clinics were allowed to advise patients whether or not they wanted to choose an abortion, and could give them their normal advise on their constitutional right to have an abortion.

Then in 1988 the regulations under the statute were changed. The statute was not changed. I think Congress fully understood what we intended, what we thought, and we lived under it for 18 years. That was the family planning clinic could say to a woman, you can carry the baby to term, put it up for adoption, or you can carry the baby to term, and keep it. You have the right to abortion. Here are your alternatives.

We thought that is what the law meant because if we did not think that is what it meant we would change it.

In 1988, in the latter days of President Reagan, the administration changed the regulations under the statute and said that statute permits us to order any family planning clinic that has Federal money not to mention the word abortion. My initial thought was this is clearly unconstitutional. You have a constitutional right to an abortion.

For the Federal Government to say we are going to compel you, family planning clinic, not to advise somebody about their constitutional liberties, I would have thought this Court would have struck down as unconstitutional. But they did not.

It does lead to some interesting other possibilities. Statutorily could we say to a medical school that receives Federal money, and they all do, you may not teach about abortion? We are about a constitutional issue here. Would we have the power to say it? Under this Court's interpretation I fear we might have that power.

And the medical schools, who knows what they might do? They receive a lot of money from the Federal Government. They might take Talleyrand's advice—do the king's work, if you take king's money.

But we would be laughed out of this body, out of Congress, and laughed at all over this country if we tried to pass a law, or if the administration tried to issue a regulation, that says medical schools because they receive Federal money may not teach about abortion. We would be regarded as ridiculous. Does teaching about abortion lead to the possibility that some doctors might perform abortions? Of course it does. So we put that aside and say we would never touch that.

I want to come back to this constitutional argument. You have a constitutional right to an abortion. The Court has not yet overturned Roe versus Wade. I hope they never do. I live in the fear of the day they do because this country will see a division worse than Vietnam if it happens. But they have not yet. Yet, the Court has said that even though you have a constitutional right, you have no constitutional right to know about it.

What if we were to carry that a bit further? You have a constitutional right when you are arrested to remain silent under the Miranda case of almost 30 years ago now, and you see that on television series all the time now. The police arrest somebody, and the police reads the suspect his or her rights. You have a constitutional right not to incriminate yourself, and if the police officer does not advise you of that right you will probably go free as a criminal defendant.

But here is what bothers me about this Court's decision in this case. For the first time in the history of this country they are putting constitutional rights on a different scale of priority.

We have never done that. We have always said in the 200-year history of this Supreme Court that a constitutional right was a constitutional right, and freedom of the press was a constitutional right. And the right against self-incrimination was a constitutional right. And the right to attend a school that was not segregated was a constitutional right. And the right to have all legislative districts equally apportioned was a constitutional right. And the right to have an abortion was a constitutional right.

Never before in the history of the Court have they said that some rights have greater priorities than others. Therefore, here is what I fear. In their mind they are thinking, yes, I know the theory of the equality of constitutional rights but somehow the right to choose does not quite rise to the same dignity as the others. And therefore we can circumscribe that. Therefore we can say to any family planning clinic in this country that gets Federal money, you are prohibited from advising a patient about their constitutional right. And the Supreme Court says that is OK. It is not OK to deny them the right to know they are entitled to remain silent, to have counsel. That would be unconstitutional. But it is OK to say they cannot be told about this.

I hope, Mr. President, that this body, when we vote on this, passes the overturning of the Supreme Court opinion by such a large margin that we are in the position to override a veto if it comes to that. I hope it does not.

But, if necessary, I hope we are prepared to override the veto. But my greater fear is not whether or not we overturn the Court—we will have the votes here to do it. My greater fear is what that Court decision portends for the constitutional right to choose—whether or not you want to have an abortion. If the Court overturns that right, Mr. President, then we are in for a long, bitter struggle in this Senate and in the House of Representatives and in this country. It is a battle I do not wish upon this country. But if it comes, I will be prepared to be in the

forefront of leading that battle to make sure we give back that right to choose if the Court ever takes it away.

I thank the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, we have heard a lot of eloquent statements on why people need to be counseled on abortion. We have heard a lot of eloquent statements on why family planning clinics, not abortion clinics but family planning clinics, should permit doctors, nurses, secretaries, and other personnel—some with absolutely no medical experience—to counsel a young woman to have an abortion. We have heard now far-flung and esoteric these rights should be. The fact of the matter is that family planning clinics were never set up for the purpose of referring for abortion, conducting abortions, performing abortions, or for telling young women or any woman that this is a preferred order of choice.

I wish to read the statement of the administration policy on this very bill, the substitute of the distinguished Senator from Rhode Island. This comes from the Executive Office of the President of the United States:

> S. 323 would require the use of title X family planning dollars for counseling on, and referral for, abortion. In addition, by negating current regulations, it would continue the practice of minors being counseled and referred for abortions without parental consent.

Keep that in mind. That is an important point. By this bill and the amendment thereto of the distinguished Senator from Rhode Island, you can counsel any young woman, no matter what her age, to have an abortion without parental consent. Later today, we are going to have a parental-consent amendment brought up by the distinguished Senator from Indiana, and I guarantee you there will be a second-degree amendment to it that will make it useless because those who were so adamant about abortion are equally adamant that a young woman should not have the consent of her parents.

I think the administration makes a good point here.

And then they go on to say:

> Under current regulations, pregnant women who seek services from title X funded projects are appropriately referred for counseling to qualified providers.

If they want an abortion, there is no question they can be referred to somebody who can give them advice.

In addition, the administration policy goes on to say:

> All committee-sponsored versions of S. 323 that we have received contain other very significant defects. The committee-passed bill will require all title X projects to counsel women regarding abortion, even if the project or project employee has religious or moral objections to abortion.

I have to admit we have moved on from there with this substitute bill. But, it is a good point regarding the underlying bill. We will see what the substitute does.

The administration goes on and says:

> This is impossible to reconcile with the legislation sponsor's stated free speech concerns. A proposed committee substitute seeks to cure this defect, but in so doing, creates a problem in the opposite direction. It would permit a title X project or project employee only to counsel abortion.

In other words, the very thing they are complaining about, the substitute that they now want to pass, will permit that family planning clinic counsel or, even somebody who does not have a medical background, to counsel only for an abortion.

Continuing on:

> * * * rather than also presenting other options in a neutral manner, if presenting the additional options neutrally were contrary to the project's or project employee's religious or moral views, although the project or project employee would be required to refer a pregnant woman to another provider concerning the options not counseled.
>
> In a June 4, 1991, letter to Majority Leader Mitchell and Republican Leader Dole, the President stated that he would veto any legislation that weakens current law or existing regulations for abortion-related activities. His intention is to ensure that no Federal funds are used to support abortion.

That is the President's sole intention—to prohibit Federal funds from being used to support abortion.

> If S. 323 is presented to the President in its current form, he will veto it.
>
> The Administration is not in any respect seeking to impose a so-called "gag rule." The Administration remains committed to the protection of free speech. As the Supreme Court noted in upholding the regulations, "[T]he title X program regulation do not significantly impinge upon the doctor/patient relationship. Nothing in them requires a doctor to represent as his own any opinion that he does not in fact hold."
>
> The Administration seeks to ensure the integrity of title X as a pre-pregnancy family planning program and also ensure that women who are pregnant are referred to providers that can assure continuity of care. Accordingly, the Administration urges that S. 323 be so amended. The President will accept a bill only if it is consistent with the above principles.

I think the President has made it pretty clear: Family planning is not for the purpose of having abortions, counseling for abortions, or providing for abortions, or supporting abortions. It never has been. The language has always been clear on that. But this bill, as amended by the distinguished Senator from Rhode Island, will do exactly that.

You might add that the section 1008, which is the section that they are amending—I just put this chart up here—says "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

There is a very good reason for that because the majority of people, the vast majority of people, in this country do not want abortion used as a family planning device, and I will make that case a little bit later.

Mr. President, it is difficult for me to recall an issue that has been more distorted than raised by the pending bill. The question posed by the bill is this: What should be the role of abortion in the title X family planning program?

We have been told in advertisements using full pages in many of our Nation's newspapers that it is about something else. There has been alleged that this is about free speech, about pregnant women—both versions are not true. This bill is about one and only one thing; writing abortion into the law that governs family planning programs created under title X of the Public Health Service Act.

Abortion, of course, is a more difficult product to make palatable than motherhood or free speech, and I do not blame the advertising agencies that develop these lines of argument. They did right by their clients. They ignored the tough issues and they switched the subject.

Here in the U.S. Senate we should have a higher standard of proof and not neglect the facts.

Let me then review the two most significant fallacies that have misled too many who have received tendentious view of the facts.

The first is that title X has something to do with pregnant women.

The second is that regulations promulgated back in 1988 amount to a gag rule impeding free speech.

Mr. President, title X is a preventive program. The purpose is to serving women who are not pregnant. It offers services to help those who seek to prevent pregnancy and those who seek to become pregnant. Most frequently, it serves to link women with a method of contraception, women who are not pregnant.

Let me restate that, women who are pregnant not only do not need these services, but to provide them would be malpractice. There is a significant difference between women who are pregnant and those who are not, we all know that. This is normally not a difficult proposition to prove. But advocates of the current legislation before the Senate seem not to make that distinction. The idea that a title X planning program should deliver preventive services is not new nor is it novel. It is the essential idea behind this program.

Look at the conference report on the original legislation passed in 1970:

> It is, and has been the intent of both Houses that the funds authorized under this legislation be used only to support preventive family planning services. * * *

That is pretty clear.

The purpose of title X is not to perform abortions, not to refer for abortions, not to teach about abortions, or not to tout abortions. Pregnant women do not need the preventive service offered by title X. We have $144 million

for this program. And, frankly, it should be used for the purpose that it was set out to be used for. Saying that pregnant women need title X services is like saying that when torrential rains come, and the river rises and floods its banks, the first thing to do is hire a civil engineer to build a dam upstream. Of course not. The first thing to do is to take care of the river that is reaching flood stage, threatening human life and property. Designs for a dam upstream will provide protection against the next flood, but they do nothing for the emergency now at hand.

The current rules governing the title X program take the same approach. Once a woman is pregnant she needs something title X cannot provide. Infertility services, contraceptive services are all pointless for confronting the situation. She needs to be elsewhere. She needs to be counseled on what to do now that she is pregnant. Title X is not set up to do that. That has never been its purpose.

It has been said the rules S. 323 seeks to change would lead to malpractice. They would if they took a strict and uncaring approach to pregnant women who sought services from a title X clinic or were found to be pregnant once they arrived at a title X clinic. Even though a pregnant woman is no longer eligible for the services a title X clinic provides, the rule creates a duty to refer that woman to a provider who can serve the needs of that woman. The current rules, the rules that the bill before us seeks to change, say:

> [O]nce a client served by a title X project is diagnosed as pregnant, she must be referred for appropriate prenatal and/or social services by furnishing a list of available providers that promote the welfare of mother and unborn child.

Arguing that title X should serve pregnant women requires subverting the purpose and intent of the program, turning it into something that it is not and should not be. Broadening title X into a program that offers a broad spectrum of contraceptive services and a little prenatal care would be bad health policy. It would disrupt the process of prenatal care, having the process start at a title X clinic and then continue elsewhere.

More importantly, much more importantly, it would bring the question of abortion into the title X program. The pending bill would require title X grantees to provide or refer for counseling on abortion. It has been said that the bill seeks to overturn a gag rule. It would instead put into place a gag rule, a rule requires nondirective counseling—if there can be such a thing.

What of the claim that requiring referral would interrupt the continuity of care received by a pregnant woman? That is a problem, not with the regulations that S. 323 seeks to overturn, but with title X itself. Title X does not provide care from conception to birth. Somewhere in that sequence an arbitrary distinction must be made, and a referral must be made to some other provider. Where should that line be drawn? The 1988 regulations draw that line in a way that the question of abortion does not enter into the title X program. The bill before us does the opposite. It makes abortion an integral part of what title X projects do.

Much has been made of the examples published as part of the current regulations relating to counseling and referral for abortion. These examples help grantees understand what the rule requires, and I will discuss them later in my remarks. The loudest voices in objection to the current rule claim those examples amount to a gag rule. What would happen if S. 323 became law? New regulations, with new examples would be published to define what is and what is not nondirective counseling. If you believe the current regulations amount to a gag, then S. 323 just puts the gag in a new place. We will see new examples in the regulations, showing what is in bounds and what is out of bounds. So for those Senators worried about a gag rule, S. 323 will not solve that problem.

In fact, the idea that the 1988 regulations imposed a gag rule is a fallacy. This fallacy was well and ably disposed of by the Supreme Court in its opinion upholding the regulations. Rejecting the argument that speech is being mandated, the Court's opinion says:

> [T]he title X program regulations do not significantly impinge upon the doctor-patient relationship. Nothing in them requires a doctor to represent as his own any opinion that he does not in fact hold.

That, of course, is not the impression that one would have if one's only source of information came from those who were opposed to the regulations. The version that comes from those opposed to the regulations, suggests that the Government will be printing up cards for doctors to read to pregnant women.

Looking at the current regulation, one sees no set of words in the regulations required to be said or not to be said. The regulation is set out and then followed by a series of examples. Those who want to see the regulation as a gag rule believe that the examples are the regulations. They are not. They are examples. Just as the distinction between pregnant and nonpregnant women seems to have escaped some who oppose this rule, so has the distinction between example and requirement.

One of the examples says:

> A pregnant woman requests information on abortion and asks the title X project to refer her to an abortion provider. The project counselor tells her that the project does not consider abortion an appropriate method of family planning and therefore does not counsel or refer for abortion.

The rule, again, relates to what happens when pregnant women wind up at a clinic meant to serve another class of women, those who want to avoid becoming pregnant or who are seeking to become pregnant.

The example is not a script. The Department of Health and Human Services is not going to print up 3 by 5 cards with the example printed on it and tell clinics, "You must use this language and no other." It is an example. There are many ways to accomplish the same purpose. That purpose is to make clear to a pregnant woman that title X defines its services as ending at conception and that the services that follow, beginning with counseling, are available elsewhere.

A nurse or other counselor to whom the question of "Where do I find an abortion provider?" is asked could come back with many different responses to convey the message that the woman is looking for services not provided by title X. One could respond, "The project does not serve pregnant women. What you need is a provider who does serve pregnant women. Here is a list, set up an appointment with a provider on that list, and raise this question with that provider." Or another response would be, "We provide preconception services. You have conceived a child. None of the services we provide would be of use to you. You need to see a provider who can offer services that are of use to you."

In 1988, Planned Parenthood performed 111,189 abortions. In 1988 alone. And they referred another 100,248 young women for abortion. In other words, Planned Parenthood was responsible for approximately 13 percent of all abortions in our society that year.

The regulations S. 323 seeks to overturn say nothing about the counseling a pregnant woman will receive when she seeks care after being referred to a title X clinic. A pregnant woman will not be referred to a provider principally in the business of providing abortions, but as to whether the provider will include abortion in the range of options presented, whether the provider will try to convince a woman that abortion is the best route for her.

Mr. President, the choice before the Senate is straightforward. We can keep abortion out of the title X family planning program, or we can require that abortion have a place in this program. Keeping abortion out of title X requires my opposition to S. 323. The issue is whether we are going to provide Federal funds for abortion for the first time since the Supreme Court ruled on this issue.

There is a lot of fact and fiction surrounding these regulations. These regulations, some say, intrude upon the doctor-patient relationship. Some have said earlier in the day that this impinges upon the ethics of the medical profession. The doctor-patient rela-

tionship can only be formed by a physician and a patient, not with a nurse practitioner, and nurse practitioners comprise 80 percent of the visits in the program. Title X is a limited medical program, providing certain reproductive health care until conception. So the doctor-patient relationship in a title X program is not an all-encompassing one. The doctor or clinician is always free to state that giving advice about abortion is simply beyond the scope of the program. Furthermore, the limited services of a title X project do not allow for a physician to conclusively determine the medical need for an abortion.

Title X's services are best suited to make medical referrals to determine further care.

Finally, extensive medical analysis is beyond the professional and legal competence of nurse practitioners, who have not been trained in the physiology of pregnancy or the performance of abortion. Yet, 80 percent of all of those counselors are nurses or nurse practitioners.

Another allegation that is made, or another fiction, I would have to call it, is that they say these regulations will cause a surge of malpractice suits against physicians.

Let us think about that. The regs are currently in effect in five States, or parts of States, Texas, Kentucky, South Dakota, Iowa, and Nevada, and all the U.S. territories. There has never been a malpractice case based on the regs where they are in effect and no indication of any problem in this regard.

Another fiction: That these regulations were developed without any basis of complaint or bad practice in family planning clinics. That is not true. These regulations, No. 1, were developed to provide clear and operational guidance to grantees on how to preserve the distinction between family planning programs and abortion as a method of birth control.

No. 2, in the years preceding the issuance of the regs, both the HHS inspector general and the General Accounting Office urged the Department to give more specific and formal direction to projects about the relation between abortion and family planning. Their reports found confusion in the clinics and variances in program practices, which included requiring clients to preselect how they would deal with their pregnancy before a pregnancy test was even administered, provision of and witnessing execution of abortion consent forms, and counseling solely on abortion.

Another fiction, that options counseling is nondirective and neutral in content. Public comment received by HHS on the regs demonstrated the problems inherent in nondirective counseling, and lend weight to concerns raised by the OIG audit and the GAO report. Many comments argued that the practice of nondirective counseling was the subject of widespread abuse with many providers foregoing any balanced discussion of options in favor of pressuring women, especially teenagers, into obtaining abortions. Numerous comments were received from women who said they were never presented with any favorable or neutral information on any other option than abortion. A typical complaint was that the counseling they had received was one-sided with the fetus dehumanized as a "lump of tissue" or as "fetal tissue" or "uterine contents," and with no information presented about gestational characteristics and stage of development. One woman wrote:

> I've experienced the one-sidedness of * * *'s "counseling" and have seen the consciences of friends shattered by what they now know was the wrong choice. Too many people are literally encouraged to use abortion as a birth control device because of its availability.

She then mentioned this family planning clinic again and says:

> * * * has never discussed the alternative side with anyone I know. I don't feel guilty or presumptive calling their efforts exploitive.

Another woman wrote:

> These clinics do not provide adequate information to pregnant women. There is no "choice" involved in regard to abortion. It is the only solution offered. I know this from experience, and I have spoken to many women who have shared that experience.

Another fiction: The options counseling that the regulations would prohibit presents information to women about dealing with the pregnancies.

What are the facts? Family planning clinics have large caseloads and are not suited to the time needs of clients in discussing life situations as well as a problem pregnancy that can cause an immediate crisis in a teenager or adult. Because of the caseload demands and bias toward abortion as a solution to problem pregnancies, clinic staff have presented the positive results of a pregnancy test to a woman and then directly counseled her on abortion, seeking a quick resolution and a decision, almost an instantaneous decision, from her.

Clinics, because they do not provide prenatal care, do not routinely perform the tests to determine the gestational stage of the fetus nor do they counsel women on this. In addition to seeking a quick decision from the client, the clinics have been reported to have even made telephone appointments for clients' abortions.

One woman wrote:

> If I had been given proper information as to the development of my 12-week-old child, and if I had been presented with options to abortion rather than just abortion given by the clinic, I would have had my baby.

Another woman wrote:

> I had an abortion at the age of 16 years with the full encouragement of a family planning clinic in (blank), California. They even called and made my first appointment with the doctor who would perform my abortion. There was no encouragement to consider adoption or to keep my baby. They helped me to get rid of my baby as quickly as possible.

We need to understand the facts. Abortion is not and should not ever be a method of family planning.

In that regard, I would like to call to the attention of my colleagues, a poll that was taken by the Wirthlin group in 1991, this year. This is a nationwide poll, and this is what the question was: "Do you personally favor or oppose using abortion as a method of birth control?"

Strongly favor, 8 percent of our society. We all know the accuracy of his polls. We know he was the pollster for President Reagan. We also know he is the pollster for others all over this country. He is considered one of the most accurate pollsters in all of American history. The response to that question, only 8 percent believe that abortion should be used as a method of birth control; 7 percent somewhat favor abortion as a method of birth control.

Somewhat opposed are 14 percent; strongly opposed, 69 percent, for a total, if you combine these two together, of 83 percent, versus 15 percent. Of course, 2 percent do not know and 1 percent refused.

Let me just show my colleagues another poll, just so they realize this fully and completely. This is another Wirthlin poll.

The question was: "Do you favor or oppose offering abortions as a method of birth control in taxpayer-funded family planning programs?" That is the real issue here. The real issue is not that you are depriving these women of these funds. They can be told. If they are in danger, there is no question they have to be told. The fact of the matter is all the regulations say is that we do not want family planning clinics funded by the Federal Government counseling on abortion. We do not want Federal funds to be used for abortion purposes or for counseling on abortion. That is the issue here.

So this is a very legitimate question: "Do you favor or oppose offering abortions as a method of birth control in taxpayer-funded family planning programs?" Strongly favor, 10 percent. There are 10 percent who strongly favor what they are trying to do here today with this bill on this floor. Somewhat favor, 10 percent, for a total of 20 percent. Twenty percent of our fellow citizens in this country either strongly or somewhat favor having abortion as a method of birth control and taxpayer-funded family planning programs. They would use taxpayer funds for that, 20 percent.

Look what the opposition is, and this is an accurate poll: 12 percent somewhat oppose that. They do not want taxpayer funding to be used to support

abortion as a method of birth control. Somewhat opposed are 12 percent, and strongly opposed, 65 percent; a total of 77 percent versus 20 percent. Three percent do not know; 1 percent refused to answer.

This is not the simple little issue that it is being made into.

Let me just show another chart that I think is very interesting, and it is on the issue of abortion itself, because a lot of people think the proabortion people are strongly in command of this country. By the way, the source of this poll is the Gallup organization. This was released February 28, 1981. How Americans Identify Themselves on Abortion: 3 percent do not know; 17 percent are strongly prochoice; 16 percent are moderately pro-choice, for a total of 33 percent. Twenty-three percent are neutral. They do not go either way on this issue. But strongly prolife are 26 percent; moderately prolife, according to the Gallup Poll—and no one would accuse George Gallup or his company's polls of being biased, certainly not on the side of the prolife people—strongly prolife are 26 percent, 16 percent moderately prolife. Forty percent of the people in this country are either strongly or moderately prolife and do not like abortion; 33 percent are strongly or moderately proabortion; 3 percent do not know; 23 percent do not know one way or the other.

Mr. President, I go back to this Gallup Poll. What we are talking about is using a Federal Government program, $144 million, to sponsor abortion and to use taxpayer moneys, $144 million to do that when there is a clear-cut concern on the part of at least 40 percent of our society, and, I suspect, a pretty good percentage of that 23 percent who are neutral on it would agree with those 40 percent; I certainly think at least 10 percent. But 50-50, 50 percent of the people in this country do not want their taxpayer funds used to counsel for, tout abortion, or force abortion on young women without giving them all the options. And, this particular amendment, with its substitute, assuming that it is enacted, will actually require exactly that.

I think it is time for us to look at this a little more carefully and realize that is the issue. It is not an issue of whether we are giving free choice or not. It is an issue that we are imposing something at taxpayer expense upon 50 percent of the people in this society, frankly, upon 100 percent of the people in this society when there is a great opposition to it, and there is reason for that opposition.

Mr. President, cleaning up the wreckage in the Persian Gulf war has gotten to be an easier job than cleaning up the Federal Government's family planning program otherwise known as title X. The Senate is taking up this matter today through a smoke screen of misinformation thicker and more pernicious than the petroleum haze that hangs over the ravaged oilfields of Kuwait.

I support family planning; I am well known for supporting family planning. I would do anything I could to prevent all these unwanted pregnancies in our country and certainly reduce the number of unwanted abortions in our society. Some of us have tried for years to build a wall between family planning and abortion and have thus tried to keep the title X programs out of the controversy, certainly out of the abortion controversy. We have tried to separate family planning from abortion as the founders of the title X program insisted they should be separated when the program was begun back in 1970.

One of those early advocates of the program, by the way, was a young Congressman by the name of George Bush. This is the same George Bush who is now accused in scurrilous political attacks, of trying to destroy family planning assistance for the poor. Time and again, we have tried to help title X by directing its resources to those who need them most and by making grantees observe the wall of separation between family planning services and abortion. Time and again, certain grantees have fought back with national advertising campaigns that could have turned Pinochio's nose into a redwood tree. Now they are at it again.

One organization—and, by the way, this is supposedly a nonprofit, nonpolitical organization—has pledged to spend as much as $5 million on a blitzkrieg lobbying blitz to overturn President Bush's reform regulations. That seems like a pretty heavy expenditure to me for a supposedly nonpolitical outfit. However, bad public policy sometimes makes terrific financial success and sense. That is the reason for the full page ads featuring a gap. Here is one of the ads by Planned Parenthood Association: A pregnant woman needs her doctor's advice, not the Government's opinion. What they do not tell you is that only 20 percent of these clinics actually have a doctor in them to give the advice. The advice is given by people who are not medically trained other than nurse practitioners, and they do not have the medical training to give a woman all of her options and choices that really she ought to have. It is really a fallacious ad. Five million bucks is being spent on this type of advertising. I cannot blame the advertisers. They, of course, like selling almost anything. They are exaggerating, distorting, and not telling the truth. Title X clients are not going to be able to have their doctor's advice in the vast majority of these cases. They are going to have people dedicated to abortion tell them to have an abortion without giving them all of the options, and that is what is involved here. They are going to do it at taxpayers' expense, and that is what is involved here.

It is the reason for these types of posters at bus stops in more affluent areas of Washington, DC. It is the reason for the mail and the phone campaigns targeting various Members of the Senate and of the House. There is a lot of money at stake here, and it is the public's money, $144 million of it. In reality, it is a lot more than that.

This is precisely the reason abortion crept into title X in the first place. The issue is how we spend taxpayers' dollars. And, I contend it should not be for abortion. We should not be spending those dollars for abortion. Title X grantees were never granted that right, never by the statute itself. This is not a question of free speech and medical ethics. It is a question of use of public funds for advocating, promoting, or performing abortion. And when the issue is presented that way, as to whether or not the taxpayers should pay for those activities, we have all seen what it means. They say no. Seventy-seven percent of the American people say, no, we do not favor the use of American taxpayers' dollars for abortion, for abortion counseling, for abortion referrals, and for the performing of abortions. It is resoundingly taxpayer opinion, resoundingly against what they are trying to do here today. No wonder the abortion lobby has gone to such great lengths and have spent so much money to blur this simple issue. They have dredged up more red herrings than the Soviet fishing fleet. When you look at the ads, it makes you wonder what kind of world we are living in. 1984 is past. Maybe it is something worse than 1984. Their immediate campaign has been directed toward this very moment when the Senate is taking up legislation to overturn the very regulation that might finally restore a broad consensus of support for title X; that is, that no taxpayer moneys should be used to promote, advocate, or fund abortion as a method of family planning. That is what the language is: "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

Let us make it clear. None of the taxpayer funds is what it means. You can spend whatever you want of your own money. If you want to raise money on the side and foster abortion and provide abortions. You can do whatever you want to with regard to abortions. Nobody is arguing against that. We are arguing against the use of taxpayer funds when at least 50 percent of the taxpayers in this country do not want abortion at all, except to save the life of a mother or in cases of rape or incest.

Mr. ADAMS. Will the Senator yield on that point?

Mr. HATCH. Sure.

Mr. ADAMS. I am concerned that the Senator is indicating that there has been an encouragement of abortion. It is my information that the General Accounting Office, the inspector general, the last three secretaries of HHS or their deputies have in the last decade argued before Congress they found no evidence that title X funds have been used for abortions or to advise clients to have abortions.

We have testimony before the committee, which I am certain that the Senator will remember, by Dr. Nita Nelson, who was the head of the American College of Obstetricians, which said clearly,

If a patient comes to my clinic and says I would like to have a method of birth control, I can say there is a pill, there is an IUD, there are condoms, withdrawal, abstinence. All those methods are available. They provide some element of family planning or contraception.

I don't tell her go out and have unprotected intercourse and if you get pregnant I will give you an abortion. That would be offering abortion as a family planning method. This just is not done.

We had testimony of a young woman from Seattle who indicated the same thing, this type of information—this is not abortion as a method of family planning issue. This is simply whether or not someone can be told their options.

I would ask my very respected and good friend this: Suppose we turned this around and had the Chinese system and said the only thing they could be told if they went into one of these family planning clinics was that they should have an abortion. Now, that would be a terrible thing and yet that would be giving half of the advice, be giving half of the counseling, and giving the choice in only one direction.

Mr. HATCH. If the Senator will yield.

Mr. ADAMS. Certainly. It is the Senator's time.

I do not think we want that. We want full medical advice and full counseling. That is why we call this a gag rule. We are not advocating family planning by abortion. I do not know anybody who has or is. I am concerned that the Senator feels that is the issue in this bill. Indeed, it is not.

Mr. HATCH. If I could answer the Senator's questions, first of all, the new substitute here says "may" counsel on abortion and that means only. The other substitute had counseling on everything, the original underlying bill.

Mr. ADAMS. This still does. The "may" is for the use of conscience. The bill still says "shall inform."

Mr. HATCH. That is right. If a person has a conscience that is only for abortion—and I have to tell you that in a lot of these family planning clinics, the people who run them do, and that person will talk only about abortion—they do not have to give the other options. If you read that carefully, that is what it means.

Second, to answer the Senator's first question, the first question was, as I understand it, that nobody in the Federal Government has said they are actually using these family planning clinics for abortion.

Mr. ADAMS. For abortion or counseling for abortion. These are Republican secretaries, the Office of Inspectors General and the General Accounting Office. Nobody has found any of these title X funds have been used for abortions or to advise clients.

Mr. HATCH. That is not true. As a matter of fact, I will refer the Senator to a draft of a proposed report entitled, "Restrictions on Abortion and Lobbying Activities and Family Planning Programs Need Clarification."

This is not supposed to be a draft except for official use, but it was prepared by the staff of the U.S. General Accounting Office. Under the cover Summary Report by the Comptroller General of the United States:

GAO found that some title X family planning grant recipients may not be adhering to Federal restrictions on abortion-related and lobbying activities but found no evidence that title X funds have been used to pay for abortions or to advise clients to have abortions.

The Department of Health and Human Services needs to provide clear guidance in formal policies regarding the restrictions and abortion-related activities. Even if this is done, however, title X recipients will still be allowed to carry out abortion activities, not with title X funds but as part of their overall activities.

Because of the sensitivity of the abortion issue and the concern over how Federal family planning funds may be used, the Congress may want to provide further guidance to HHS on the intent of the abortion restriction in the title X family planning program. HHS needs to provide recipients clear and consistent guidance on the types of activities proscribed by Federal lobbying laws and regulations.

Mr. ADAMS. That states, does it not, right at the beginning that there has been no evidence that this has been done? I would like to have the Senator's answer.

Mr. HATCH. If I could have the floor back.

The PRESIDING OFFICER. The Chair reminds the Senators that the Senator from Utah has the floor and Senators direct questions through the Chair.

Mr. HATCH. I would like to retain my right to the floor until I finish my statement. Let me finish.

It states GAO found that some family planning grant recipients may not be adhering.

I have to say the final report that came out from the Comptroller General says, "Some family planning grant recipients' practices raise questions as to whether they comply with restrictions on abortion-related activities." They do say, "But there was no evidence that title X funds had been used to pay for abortions."

Now, let us just be honest about it. Almost all of these family planning clinics are not solely funded by the Federal Government, but without Federal Government funds they probably would not last. So they can hide behind the fact, as the Comptroller General does here, that they attribute the moneys that are used for abortion counseling and abortion and family planning clinics all over America, they attribute those moneys to private donations, but there is no way of showing that.

I have to submit even further that the Federal Government in supplying moneys that help them to stay in existence; the very fact that they are helped to stay in existence makes it very clear that those funds have gone so they can continue to provide abortion as a part of family planning services.

Now, let us just go one more step. I said earlier according to the Planned Parenthood Service Report of 1988, their own report—this is Planned Parenthood. This is a family planning outfit. They get a lot of donations from private citizens all over this country who donate, thinking that this is a family planning approach. But they also get 30 percent of that $144 million without which, I submit, they would have a rough time staying in business, or a rougher time, put it that way. But according to their own Planned Parenthood Service Report of 1988, they performed 111,189 abortions that year. In some cases, if not all, they were performed right on Planned Parenthood premises. Of that number, 111,189 abortions in 1988, 12,230 of them were performed on girls ages 17 years old or less.

Tell me that they do not tell them get an abortion and do it with Federal funding.

Mr. ADAMS. If the Senator will yield.

Mr. HATCH. If the Senator will just hold off for a minute or 2, I want to make these points. In that same year, 1988, Planned Parenthood referred 100,248 women for abortions.

Tell me that Federal funds are not being used. They can say well, we segregate them, but they do not. The fact is that they are used, and they are used in violation of law. That is why they want this particular bill today, so they can continue to advise not only these young girls less than 17 years of age but women of all ages to have abortions as the first order of choice.

That is pathetic. That is in disregard of the fact that 77 percent of the American people versus 20 percent do not favor offering abortions as a method of birth control in taxpayer funded family planning programs, and that 83 percent of American people oppose using abortion as a method of birth control compared to 15 percent. These are the real issues.

In 1988, according to Planned Parenthood's report, and the other statistics

that are brought in—I have said for a long time we have around 2 million abortions in this country, one of the most permissive countries in the world—Planned Parenthood was responsible for approximately 13 percent of the total number of those abortions.

This is a family planning outfit, Planned Parenthood of America.

Mr. ADAMS. If the Senator will yield on that point, the point of the reality of America is that 82 percent of the births among these girls that come in, the vast majority of teenagers are sexually active before they arrive, despite efforts to provide them with contraceptives, or even prevent pregnancy, and more than 82 percent of the pregnancies are unintended.

What occurs is you have people arriving at these clinics for the first time and they are in a status of pregnancy. So something has to be done.

With regard to the issue of whether or not there are ads—here is the Washington Post this morning, and that is not a pro choice ad. And with regard to the Harris Poll, 78 percent of Americans want Congress to pass a bill permitting full discussion of abortion in federally financed birth control clinics. Nobody is advocating that there be birth control by abortion which is the argument of the Senator.

Mr. HATCH. I will take back the floor. Those people in the Harris Poll believe that because they believe that a physician is giving that information they believe that physicians are telling these women what to do, not nurse practitioners and secretaries sitting at a front desk. And, that is what is happening in 80 percent of the cases.

Another thing that they point out—these polls show that, and I think they are accurate, whether it is Harris or anybody else they will come up to the same conclusion—is that the vast majority of people in this society do not want our taxpayer dollars used to foster, promote abortion, and to perform abortion.

Sure those figures are going to be high when people are led to believe by the questions of Mr. Harris that they are getting physician advice.

Mr. ADAMS. No.

Mr. HATCH. That is what it says.

Mr. ADAMS. The issue is whether or not they should be given advice under this gag rule.

Mr. HATCH. Yes, by physicians.

If I can have the floor back, Mr. President, I will be happy to listen to the distinguished Senator when he wants to talk. I want to finish this so Senator DURENBERGER can lay down his amendment before lunch.

Mr. President, I have to say that the people who were polled thought physicians were giving this advice. I think if they were asked if physicians were giving only advice for abortion would they abort? The answer is clearly "no".

But it is easy to see I can word a question—that should physicians give advice, total advice—assuming that all the advice given of family planning clinics is by physicians. But, only about 20 percent of the people who receive advice in title X clinics are getting it from physicians, in most of those cases from pro abortion physicians.

Today we are discussing S. 323 or some variety of it. This bill in whatever form its proponents offer will weave abortion into the very fabric of title X. Title X funds family planning services for low-income women.

I support family planning. It might seem like a minor step to allow grantees to refer for abortion, but consider what is meant by referral within title X guidelines. Referral means establishing far more arrangements with the referral agency, having written referral and followup procedures, making arrangements for transferring client information to the subsequent provider, in this case the abortion clinic, and documenting that recommended referral appointments are made within an appropriate period of time, and documenting that those appointments are actually kept.

Are the advocates of this legislation really comfortable with all of that? Do they really want title X personnel that deeply involved in the grisly aftermath of abortion referral? I do not see how.

The practical effect of S. 323 in whatever form it is before us is within the context of existing title X guidelines. I ask the proponents of this bill to consider this requirement from those guidelines. It says this:

> When family planning clients are referred for services, projects have a responsibility to assure that clients obtain the appropriate services and the referred clients should be contacted to assure that the services are obtained.

Let us be clear about what that means. The title X nurse or doctor, or receptionist in some cases, who "counsels and refers" for abortion will have to follow up to make sure that the woman or girl gets the abortion.

In practical terms this means a phone call like the following:

> Hello, Ms. Jones? Last week we gave you the phone number of the Midtown Abortion Clinic. Did you make your appointment? Did they schedule the procedure? Have you gone in for your suction, or D and C, or your saline solution? We are sorry to have to call you about this at home, because we certainly do not want your parents to find out, but under the law once we refer you for something we have to check to make sure our clients obtain the appropriate services.

That is the law. That ghastly conversation would have to become commonplace if this bill ever becomes law.

The worst of it is even if one favors abortion rights the potential for abuse in this legislation is horrendous. It offers nothing by way of protecting women and girls who seek title X services.

Abortion after all is not a minor medical matter. It does stop a beating heart. It is intended to.

But it can also have a serious and tragic effect upon the mother's life, health, and emotions. Why would anyone want to foster these possibilities within the family planning program?

By way of comparison consider the protection mandated by Federal law for a woman considering sterilization.

If a woman comes in and requests sterilization, then you have to do the following. You have to ensure she is not pressured or hurried into that procedure. She must be at least 21 years of age. I just mentioned over 12,000 abortions of girls 17 years of age or younger in the Planned Parenthood clinics.

No. 1, she has to be 21 years of age.

No. 2, she cannot be pressured or hurried into that procedure.

No. 3, she has to wait 30 days before going through with the procedure. She has a time period.

No. 4, her physician, not some ill-defined counselor, must certify—a physician, a real live honest-to-goodness physician—that she is mentally competent and not under the influence of alcohol or drugs. A real physician has to do that.

No. 5, she has to acknowledge by signature that she has received a federally approved consent form.

No. 6, she has to be informed of the risks of sterilization, including information about the types of anesthetics.

No. 7, she must be given an interpreter if there is any doubt about her ability to understand the information in English.

No. 8, all State and local laws for obtaining consent, apart from spousal consent, has to be followed.

Sterilization of course is irreversible. That is why such standards really are required. Sterilization is irreversible. So is abortion.

So is abortion. Whether it is a 14-year-old girl or a 30-year-old woman, it is irreversible. It is final. That is what we are talking about here, whether taxpayer dollars should be used for this.

Whatever the method used, a tiny heartbeat stops. A life ends. And a woman or girl will have to live with that all the days of her life. That, precisely that, is what this bill imposes and insinuates in title X.

We all know that abortion is a right in this society. Any family planning clinic that refuses to take Federal dollars can do whatever it wants to about abortion, and a lot of them do. But most of them have their hands out for Federal dollars. When they do, there is some responsibility to do what the taxpayers believe in. And 83 percent do not believe that abortion should be used as a birth control device or a family planning device.

This bill imposes that and insinuates it into title X. Title X was enacted to

end abortion by providing women with alternatives. Now we are concluding with abortion as a family planning alternative. Keep that in mind.

This legislation when it passes, if we do not sustain the veto, will become a family planning alternative. I really do not believe the American people want that.

They may want abortion, but not at taxpayers' expense, But they certainly, if they understand this issue, do not want it as part of the Federal family planning services.

The taxpayer is going to pay for it if this legislation passes. They are going to pay for abortion as a method of family planning. I submit that abortion does not belong in the title X program. It is as out of place in our Nation's family planning laws or programs as the viper in the aviary.

Let us maintain these regulations, or at least some regulation that makes sense and will keep our federally funded programs from becoming abortion bills. I think it is plain to say that I think it is time we look at the issue the way it should be looked at and not listen to all these fictions that are offered as justification for what is going on here.

I oppose S. 323, and I urge my colleagues to do the same.

I yield the floor.

Mr. JEFFORDS. Mr. President, I listened to a very excellent and passioned speech by the Senator from Utah, and I understand his feelings. I think we all do. This is one of the most controversial and deeply emotional subjects that any of us ever discuss on this floor. But I think it is important to try and focus back on what the real problems and issues are here.

First of all, there is no disagreement as to what the present law passed in 1970 says, nor is there anything in this amendment that would change the thrust of that law which specifically prohibited the utilization of funds with regard to abortion or terminating pregnancies. But the question is as to whether or not that 18 years of interpretation which did allow in family planning clinics the ability to allow a person, a woman, to be advised of her constitutional rights should be cause for the termination of funds in the family planning clinic.

We are not dealing here with statutory problems. At least at this point, with Roe versus Wade, a woman has the right to an abortion at least during the first trimester. The question then is as to what was the intent of Congress with respect to the statement by a physician at the request of a woman as to what her rights were that termination of a pregnancy is allowable and then to give information as to where that option might be found.

We have a perfect right in this body to correct what the administration did in their interpretation of that with the regulations of 1988. And that is what we seek to do here, to put into the law what was anticipated or believed to be the proper interpretation for some 18 years.

The Senator from Utah made a great deal of certain polls that were taken. And I would not disagree with those polls. I would have voted with the majority, as he pointed out, that abortion should not be used as a method of birth control. The interpretation of any citizen who answers that was obvious, that you would not tell your child or a woman, do not worry about using contraceptives because you can just get an abortion. And that is the way that was interpreted. It is pretty clear.

Let us talk about the reality of the situation which we are involved with here and why we are here. It has been pointed out that a large number of young women who become pregnant are teenagers. I know that is certainly the case in Vermont—and it is no different from the rest of the country—that a large number of young women who become pregnant are teenagers.

More importantly than that, family planning has become really the only way that a low-income person can receive medical advice. We do not have the kind of programs that are necessary to provide preventive health or any kind of treatment or health or advice to low-income people unless they happen to be under an insurance program or health program. In our State, for instance, almost all, 80-some odd percent, of the below or low-income people, 27 percent of those that receive advice and help in our family planning clinics are teenagers. They are the ones that we are largely referring to here. Other people above those kinds of income limitations can seek their advice and get it from medical professionals and medical help. We are talking about the right of those women who find themselves in the difficult situation of pregnancy who really only have one option and that is to go to the family planning clinics and get the information that was allowed up until 1988.

Let us talk about reality here. There were a lot of discussions about the overall problems and the number of pregnancies and abortions will solve these problems. But let us talk about a real situation, the kind that a doctor is faced with. They are not easy ones.

A 15-year-old comes into your office and she says to you, "I find that I am pregnant, and I do not want the child. In fact, it was only under extreme circumstances that I become pregnant. I did not want to become pregnant. What are my options? What can I do? Is there any way that I can avoid having this child?"

And the doctor has to say "I am sorry. I cannot tell you about that. Let us talk about adoption. Let us talk about carrying it to term. But, I am sorry, as far as we are concerned here, those are the only options you have."

Or make that situation just a little bit worse. She comes in and she says, "I was raped. I do not want this child. I do not know the father." And yet the response has to be the same, according to the interpretation by the regulations and the Supreme Court.

All we seek here is to give what would be commonsense advice, at least to give the child a real situation, one who would be made available to the options that were available, including the termination of pregnancy. That is all we seek here.

These are the kinds of situations that you have to deal with in real life. They are not easy ones.

It is true also of someone who comes in and says, "My gosh, I did not want to but we made love 3 or 4 nights ago, and I want to know what I can do now."

And the physician says, "I am sorry, but since the odds are you probably already had conception, I cannot disclose to you any options which might be available otherwise. So we have to talk in terms of adoption or carrying the baby to term."

The same could be true of any of a number of other circumstances where all of us would say, my gosh, under those circumstances at least that child ought to be allowed to have a constitutional right to have expressed to her options and not be made to endure what comes from having to carry a baby to term by someone she does not know or someone she does not want to be the father of her child or whatever other circumstances you can imagine.

Those are the real situations we are dealing with here. We can talk all we want about the philosophical aspects and the problems that are involved. But we are only talking here about the constitutional right of a child or a woman to be advised of all the options that she has to take herself out of a situation of pregnancy for which she, by something out of her own control or because of other circumstances, has become pregnant and does not want to carry the baby to term, simply to restore what was available to young people in this country and to women in this country up until the so-called gag rule was incorporated in the year 1988.

It is no violation of constitutional principles. It is nothing more than doing what Congress has to do, and that is to correctly outline what was the intent of Congress at the time this bill was passed and so interpreted for 18 years, and that is family planning.

Mr. President, I hope we will concentrate on the real circumstances and issues here of especially the poor women that seek advice under these circumstances and not get carried away with very, very emotional and poignant arguments that are really not relevant to the kind of circumstances we are here to deal with today.

Mr. President, I yield the floor.

AMENDMENT NO. 754 TO AMENDMENT NO. 753

(Purpose: To provide for a substitute amendment)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 754 to amendment No. 753.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1 of the amendment, strike out line 3 and all that follows through the end of the amendment, and insert in lieu thereof the following:

SECTION 1. REQUIREMENT FOR MEDICAL REFERRALS OF PREGNANT INDIVIDUALS BY FAMILY PLANNING PROJECTS RECEIVING TITLE X FUNDING.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. REFERRALS OF PREGNANT INDIVIDUALS FOR MEDICAL CARE.

"(a) REQUIREMENT.—Except as provided in subsection (b), entities receiving financial assistance under this title (whether by grant or contract) shall be required to refer individuals who are pregnant for appropriate prenatal medical care, by furnishing such individuals with a list of available health care providers. Such list may include available prenatal care providers who perform abortions, but shall not include providers whose principal business is the provision of abortions.

"(b) EMERGENCY CARE.—In cases in which a pregnant individual is determined to need emergency medical care, an entity receiving financial assistance under this title shall only be required to refer the individual immediately to an appropriate provider of emergency medical services.".

Mr. DURENBERGER. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is my understanding that the Senator would be prepared to enter into a time agreement of some 90 minutes evenly divided. It is the request of the leadership that we begin the debate at this time and then run the time after the luncheon if that was agreeable and that there would be no second-degree amendment in order.

The PRESIDING OFFICER. Is there objection?

Mr. DURENBERGER. Mr. President, the nature of the amendment is a first-degree amendment to the substitute amendment by our colleague from Rhode Island. It has been discussed among both of the managers and Senators with other amendments. It is agreeable to this Senator that on my amendment there be 90 minutes, as I understand it, equally divided, and that the 90 minutes commence after the Senate reconvenes this afternoon.

Mr. KENNEDY. I think the leadership would just as soon have the debate commence at the present time. We are here to debate. I see the Senator from Rhode Island and others here to debate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. HATCH. Will the Senator from Minnesota yield for just a procedural question or comment? Will the Senator yield?

Mr. DURENBERGER. Yes. I will yield to my colleague.

Mr. HATCH. I have been informed we are trying to get the hour and a half approved and there is one other person who has to be checked with. We hope we can. And we hope there will be no objection to an hour and a half time agreement. I suggest we do that immediately following lunch so the Senator can lay it down and talk about it.

Mr. KENNEDY. Will my colleague yield?

Mr. DURENBERGER. Mr. President, I will yield to my colleague.

Mr. KENNEDY. Mr. President, just for purposes of the organization of the legislation, I want to ask unanimous consent at this time that at whatever time the Senate disposes of the Durenberger amendment, that there be no second-degree amendment in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The agreement is ordered with respect to no second-degree amendment at such time as agreement is reached on the debate on the amendment of the Senator from Minnesota.

The Senator from Rhode Island.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. DURENBERGER. I will be pleased to yield to my colleague.

Mr. CHAFEE. It is my understanding we are going to have 90 minutes equally divided. It is further my understanding the leadership would like to get started.

We have 20 minutes before we break, if we break at 12:45, something like that. I, for one, would just as soon get started, if the Senator from Minnesota would like to go ahead and present his amendnment and discuss it.

The PRESIDING OFFICER. The Chair understands the minority manager has expressed a desire to wait for one more Senator and has not given consent to the 90 minutes at this point.

Mr. KENNEDY. If the Senator will yield further?

Mr. DURENBERGER. I will yield further.

Mr. KENNEDY. I would have a gentlemen's understanding with the Senator from Minnesota if there are going to be other amendments we will make that request for the time after—I imagine after the luncheon break. But I would hope I am speaking, too, for Senator CHAFEE himself, indicating we would not need more than at least half of that time.

The PRESIDING OFFICER. The Chair would advise the distinguished manager of the bill there is a recess currently scheduled for 12:30 under the previous order.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate the fact the President has clarified the matter of the recess. One of the reasons I had suggested the 90 minutes commence afterward is just for the continuity of explaining my amendment to all Senators. It would certainly be preferable for me to begin this discussion, this explanation, after the recess rather than at this point.

I also ask unanimous consent that my colleague from Utah, Senator HATCH, be added as a cosponsor to my amendment.

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

Mr. KENNEDY. Mr. President, just for the benefit of the Members, it is at least our hope we can move the debate and discussion on, in the course of the legislation. It is our hope, after the conclusion of the debate on the amendment of the Senator from Minnesota, that we would move toward the consideration of the amendment of the Senator from Mississippi [Mr. COCHRAN] who has also indicated a willingness to enter into a time limitation.

I know the Senator from Indiana has an important amendment and although we cannot structure this in any particular way under the rules of the Senate without having unanimous-consent agreement, and we are not prepared to offer that at this time, maybe the majority leader will do so after the break, but we hope we would be able to consider that amendment or any other amendment that is related to that particular subject following the disposition of the Cochran amendment, just to give Senators some idea of the way we are going to be attempting to proceed.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I believe we can enter into that time agreement of an hour and a half.

I ask unanimous consent that we enter into that time agreement that was stated earlier, an hour and a half equally divided with no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Could we withhold that for one moment?

The PRESIDING OFFICER. It is the understanding of the Chair the Senator has asked unanimous consent for an agreement for 1½ hours, equally divided, and no second-degree amendment?

Mr. HATCH. 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. 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 unanimous consent that there be 90 minutes equally divided and controlled for the debate on the pending amendment; that no other amendments or motions be in order prior to the disposition of the Durenberger amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I further ask unanimous consent the time starting on the Durenberger amendment be at 2:25 and that at the opening of the Senate at 2:15 Senator DANFORTH be recognized for a time not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, finally, I want to clarify, on the issue of the motions included in the consent request, they do not include motions to table.

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

Mr. KENNEDY. 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. 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.

RECESS UNTIL 2:15 P.M.

Mr. KENNEDY. Mr. President, according to the previous order I move the Senate stand in recess until the hour of 2:15.

The motion was agreed to and, at 12:27 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BRYAN].

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri [Mr. DANFORTH] is recognized for a period not to exceed 10 minutes.

CLARENCE THOMAS AT THE EEOC

Mr. DANFORTH. Mr. President, I am sure that in the next 2 months much attention will be focused on Clarence Thomas' chairmanship of the EEOC. Because Judge Thomas spent 8 years in that office, his stewardship deserves careful attention. Surely, each of us should take the time to learn about the Thomas era at the EEOC. What kind of chairman was he? What was the Commission like before he took office, and what is it like today? What do its employees say about his chairmanship, and what does his tenure at the EEOC tell us about Clarence Thomas as a person?

In order to learn the answers to these questions, I decided to find out for myself. I went to the EEOC headquarters, met with people who had worked with Clarence Thomas, walked the corridors and formed a clear impression of Clarence Thomas, the Chairman. Today, I would like to share my observations with the Senate, and to suggest that other interested Senators do what I did—go to the EEOC headquarters and see for yourselves.

While at the headquarters, I had the opportunity to speak with a wide variety of individuals. They were male and female, black, white, and Hispanic, able bodied and visibly disabled. Most held managerial or professional responsibilities. One was a maintenance man in green overalls. One was a driver for the Commission. They shared a common commitment to the mission of their agency: To ensure equal employment opportunities for all Americans. All had worked with Clarence Thomas. Some had served at the Commission years before the beginning of the Thomas era.

The clear message of those I visited was that Clarence Thomas had transformed the EEOC from the dregs of the Federal bureaucracy to an efficiently operating agency which was effectively performing the duties Congress had assigned to it. The present Chairman, Evan Kemp, said that until Clarence Thomas took over, the agency was generally considered to be, in his word, a "joke," and that Thomas had transformed it into a first-class agency, equal to two others where he had worked, the Internal Revenue Service and the Securities and Exchange Commission.

This observation was shared by others at the Commission. A white male attorney who has been with the EEOC since 1974, told me that Clarence Thomas "brought us from an also ran agency to the first tier." He said that in the old days, management of the Commission was not always held accountable. He added that in the Thomas regime, "When I made hard decisions, judgments were made on the merits. Politics did not enter in." A woman, with the Commission since 1979 said, "Today, people respect the EEOC. * * * (Thomas) worked very hard to improve the quality of the staff."

A black woman told me that under Clarence Thomas, "Computers started appearing all over the agency." She said that on days when employees had to work until 2 a.m., Clarence Thomas would be there.

The financial management system of the Commission before the Thomas regime was described as "a mess" before Clarence Thomas arrived. Clarence Thomas cleaned up the mess, according to a black female manager.

One of the most telling statements was made by a 51-year-old white male manager who had been with the EEOC for 21 years. He described himself as "a liberal, life-long Democrat who had never voted for a Republican in my life." He said, "Clarence Thomas brought the agency into the modern age. At the time he came, we couldn't tell you what cases we had. He put in place a tracking system. We increased the number of cases, and reduced the time for them. I never had interference with how I handled cases. He made us proud to work here."

I specifically inquired about age discrimination that had lapsed because the statute of limitations had run. I was told that these cases amounted to about 0.2 to 0.3 of 1 percent of the case load, that they never would have been discovered but for the computer program installed by Chairman Thomas, and that when Mr. Thomas heard that age discriminations cases had lapsed, he "saw red." One employee said that, "the suggestion that the lapse was intended has no basis in fact."

A blind attorney, with the EEOC, who now heads the litigation program, said, "I feel personally offended at the unfounded criticism" of Chairman Thomas.

The esprit de corps of the agency was described by an attorney with the Commission, a black woman recruited by Chairman Thomas in 1985. "He told me he wanted to move the agency forward, to attract really good people. He had the highest integrity. He had a high tolerance for disagreement."

Even more illuminating than accounts of the Thomas management of EEOC were the statements made about the personal qualities of the Chairman. Several employees said that the Chairman was personally involved in making the Commission's new headquarters building accessible to the disabled. One person said that Clarence Thomas learned enough sign language so that he could encourage the hearing impaired. Another said that when her son was injured in a football accident, the Chairman came to her office to find out how he was doing, and gave her the name of his own physician. He later "kept coming down" to inquire about his condition.

A long-term black employee who had worked for Martin Luther King said that Chairman Thomas would bring young employees to see her, and would say, "Willie, tell them about Dr. King."

When I asked about the charges some have made that Clarence Thomas has lost sight of his own experience with segregation, and that he lacked feeling for those who came after him, a black maintenance man expressed his feelings most eloquently, and without words. He simply looked at me. Then

slowly, deliberately, he turned both thumbs down.

A number of employees of the EEOC thought it important to describe Clarence Thomas' last day as Commission Chairman. They told of hundreds of employees standing in the lobby in tears to say goodbye. When he walked out the door, one middle-aged woman followed him outside, tears streaming down her face.

The headquarters building of the EEOC has since been named the Clarence Thomas Building. A plaque honoring him is fixed to the lobby wall, its words composed, not by the members of the Commission, but by the employees:

Clarence Thomas, Chairman of the U.S. Equal Employment Opportunity Commission, May 17, 1982—March, 1990, is honored here by the Commission and its employees with this expression of our respect and profound appreciation for his dedicated leadership exemplified by his personal integrity and unwavering commitment to freedom, justice, equality of opportunity and to the highest standards of Government service.

TITLE X—PREGNANCY COUNSELING ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous agreement, the pending amendment is amendment No. 754, offered by the senior Senator from Minnesota [Mr. DURENBERGER], subject to a 90-minute time agreement, controlled in the usual form.

The Senator from Minnesota [Mr. DURENBERGER] is recognized.

Mr. DURENBERGER. Mr. President, the Chair has stated the pending business, and for those of our colleagues who may not have been here when I proposed the amendment, it is an amendment to a substitute proposed earlier in the day by my colleague from Rhode Island, Senator CHAFEE.

We have a unanimous-consent agreement to confine the debate to 90 minutes, 45 of which I will not take, but at least I will begin to explain the purpose of this amendment. But I will do it, Mr. President, in the context of family planning.

I thought it appropriate that before we get into the emotional details of this debate—and whether debate is emotional or not, the issue certainly is—it is important to address some very basic facts and history about what the title X program is. We need to understand what we are dealing with before we decide how it should work.

Title X is a section of the Public Health Service Act, and that ought to tell us something right there. Title X is part of a national effort in this country at promoting and improving public health.

There can be no more central concern for government or for individuals than the health of its citizens, and yet we struggle each year here to find adequate resources for public health. I have been part of that struggle, as have Senator KENNEDY and Senator HATCH in the Labor Committee and Senators HARKIN and SPECTER, the leaders on the Appropriations Committee.

The full name for title X is the Population Research and Voluntary Family Planning Program. The purpose of the program is to provide information and contraceptives to people in order to prevent unwanted pregnancies.

I suppose at one point in time, before I reached this Chamber, that basic purpose was a controversial purpose. But to the vast majority of Americans today Government helping young women to avoid a pregnancy they do not desire and are unprepared for is a good idea and it is tax money well spent.

Title X today provides grants to about 4,000 family planning sites around America. They serve about 4 million women, most of whom are lower income. The core services which these facilities provide are the following: Contraceptive information, contraceptive services, gynecological examinations including basic lab and screening tests such as for cervical cancer, sexually transmitted disease detection, natural family planning instruction, infertility services, and pregnancy testing.

Given the alarming statistics we see about lack of access to health services among lower income women, title X fills an important hole in our public health system. Medicaid, the maternal and child health block grant, and social services block grant, as well as State and locally provided funds, augment this effort. But as the Infant Mortality Commission, the Pepper Commission, and many other studies have shown, many Americans are falling though the cracks.

In part due to various controversies which have become attached to the program, funding today is $18 million less than it was in 1981. When you put that in constant dollars, that is a 50-percent reduction in our Federal commitment to family planning and all of the related services I have just listed.

I ask, Mr. President, is there any person on this floor who believes that family planning is less important today than it was a decade ago? We ought to be spending twice as much, not half as much, on family planning.

Millions of women who need these kinds of services are simply not getting them because there just is not enough to go around. For every 1 woman served, there are probably 10 unserved. And what happens to them? Many of them end up delivering low-birthweight children, populating our neonatal intensive care units in hospitals all over America. Some of them have short, painful, but expensive lives which devastate their parents and burden the community. To my mind, Mr. President, an equally tragic event, many of those unwanted pregnancies end in abortion.

Mr. President, title X is a vitally important program. It deserves greater support than it gets around here. It deserves far more funding than it receives around here. That is my objective in offering the amendment before us, to find a way to steer title X around all of the controversies which have surrounded it ever since I came to this Chamber. And the way we can do that is to agree to a compromise between the extreme positions in this debate.

I propose that we split the difference between what the Supreme Court erroneously said the title X regulations meant in the Rust decision and what the groups supporting the Chafee bill say they should mean. It is an effort to make title X the best public health bill that it can be. Then we can win bipartisan support for family planning and press on to get the funding it deserves.

The purpose of this amendment is simple: To get pregnant women as quickly as possible into the setting where they can get the best and most comprehensive advice possible. My amendment ensures that women who discover they are pregnant at title X family planning clinics are immediately referred to experts for prenatal care, experts for counseling concerning their options.

The Chafee amendment has no such guarantee. To the contrary, under the Chafee substitute, we can be sure that many women will get pregnancy advice from people who are not qualified to give it.

Unfortunately, the heated rhetoric surrounding the program has often obscured the common purpose we all share: That women receive quality health care. I hope this amendment will serve to lower the volume of the rhetoric of the debate and turn our attention to where it belongs, to ensure that we facilitate continuity of health care when a woman is pregnant. For at that point, there are two patients, a mother and her child.

Mr. President, we need to focus on the limited scope of the Title X Program. Let us be clear. It is not a full service health care program. It is a preventive preconception program. Services in the program include preconceptional counsel, education, and general reproductive health care. In essence, once a women is diagnosed as pregnant, she does not belong in the Title X Program anymore.

When a person's general practitioner discovers a serious condition, they normally refer the patient to a specialist who is more competent to treat the condition. That is exactly what my amendment proposes: When a title X facility has a client or a walk-in client who is pregnant, they must refer that woman to a facility that is expert in

treating pregnancies. Preventing pregnancy and dealing with it are two different things, and title X should reflect that fact.

In this regard, it is critically important to understand one simple fact. In approximately 80 percent of the visits to a title X clinic, the woman will not be seen by a physician. She will be seen by a health professional trained in conception and venereal diseases. These are people not equipped to counsel for, diagnose, or treat postconceptional problems. To receive these kinds of services, the woman must leave the program and receive care from a prenatal provider in the same community.

I have often heard proponents of JOHN CHAFEE's amendment say these decisions should be made between a woman and her doctor. That, Mr. President, is the purpose of this amendment: To get women out of an environment where only 20 percent of them will be seen by a doctor and into medical facilities where their pregnancy can be dealt with competently by physicians who specialize in obstetrics and prenatal care.

Assessing the health implications of pregnancy is an extremely complex area which requires medical personnel trained in obstetrical care.

This is the way the program is supposed to work now. I did not invent the idea of medical referrals. I have visited family planning clinics in my State in the aftermath of the Rust decision, and they tell me things are now quite different. They believe that the referral is under a shadow, and they are very uncertain about what activities, on the discovery of a pregnancy, are permissible and which are not. This amendment clarifies this situation for every professional in every title X clinic in America, in answer to some of the exaggerated claims of the dire impact of the regulations as they now stand.

Under this substitute, the pregnant woman would be given the information she needs. Once she is diagnosed as pregnant, she will be referred for prenatal care by providing her a list of health care providers. On this list can be such providers as hospitals, community health centers, and maternal and child health programs and private physicians.

She may then look at the list and ask questions such as: Which one is the closest? Do you know which one has the lowest prices? Which ones accept Medicaid? Or: I have a family history of diabetes. Which of these programs has experience with high-risk pregnancy?

Under this substitute, the clinic can then supply the woman with the valuable information in helping her make her choice. Until she makes the choice of the referral, they also have to provide her with all the important, appropriate information that goes with her pregnancy.

I want to emphasize the following point. This referral list that she is given may include prenatal providers, prenatal counselors which refer for abortion. It may include prenatal counselors which actually perform abortions, as many hospitals and private physicians do.

The only providers who are excluded from the list are those whose principal business is the provision of abortion or abortion clinics. But if they provide prenatal counseling services, they will be on the list and they will be the appropriate referral in that community.

However, if a woman enters a title X clinic and suffers from a medical emergency, this clinic is required to refer her immediately for emergency health care services, even if the outcome is abortion.

An important feature of this substitute is that it facilitates a women exploring all of her options concerning pregnancy and exploring them with personnel who are trained in the full range of obstetrical care.

At the referral, the woman can discuss and receive counseling on abortion. And, of course, there she can also receive the counseling and the care for her health and the health of her child. These are all services that are simply beyond the scope of the title X program. I believe that it is time we recognize this fact, and that we tone down the rhetoric and face the facts about the limitations of this program.

I hope, Mr. President, that this substitute offers a common ground for my colleagues who share my concerns about promoting women's health, who share my concerns about reducing the tragic rate of infant mortality in this country. Rather than focusing on a divisive debate about abortion, we ought to be showing the way to improve maternal and children's health. And I fervently believe that my amendment serves that objective.

It simply says that if you are pregnant, we want you to seek help from medical professionals who are specifically trained in the area of prenatal care. The title X program is not the place for that type of care, but here is where you can find it.

For those who think that the Durenberger referral amendment created referrals, let me tell you that the business of title X clinics is making these referrals. The Planned Parenthood of Minnesota, thank the Lord, provides a tremendous title X service in our State, routinely provides referrals to people who discover they are pregnant. They have a booklet entitled "Pregnancy-Related Community Resources." It includes social services, pregnancy continuation services, counseling, adoption, and related services of one kind or another.

This booklet, under my amendment, will have one change in it. There will not be a section entitled "Pregnancy Termination." But for the agencies that are listed under "Pregnancy Termination," like the Planned Parenthood of Minnesota, Highland Clinic, in St. Paul, which is a prenatal counseling service, it is perfectly appropriate to make a reference to Planned Parenthood of Minnesota, Highland Clinic, for prenatal services. At that service, there may be an abortion referral, and there may be an abortion performed. But not until the woman has all of the options, not just one of the options, that may come if you adopt the Chafee amendment.

The Midwest Health Center performs abortions in Minneapolis. It also provides prenatal counseling services. It counsels people on carrying their children to term, as well. That is all this amendment is designed to do: Make sure that you get all the options, not just one.

In conclusion, I believe it is essential that somehow we penetrate the fog of this debate and present the facts about family planning.

The fact is that once a woman is diagnosed as pregnant, as an expectant mother, this program cannot give her the counseling and the care she needs. She must have prenatal care. My amendment gives her the information she needs. In short, it makes good public health sense. To put this in personal terms, a young woman receives a pregnancy test in a title X clinic; it comes back positive. She is probably in a crisis state, and she needs counseling. It is our obligation to see that she gets it. It is our further obligation that she gets it from those most qualified to give it, and that she get all of the options.

We do not have an obligation to guarantee the right of the title X health worker to provide selective counseling to a newly pregnant young woman or teenager on what they should choose. The amendment is not a gag rule. It is the rule that states that pregnant women get counseling from those best trained to give it, and that in that setting, not in a pregnancy prevention setting, they get all their options.

Mr. President, the Senate has a choice: Continue the fractious debate, which weighs down this vital public health program, which provides fewer dollars today by 50 percent than it provided 10 years ago for one of the most important public health services in America; or seek a middle ground which deals with this contentious issue by directing pregnant women to settings where they will get the best care available.

As a supporter of the title X program and an advocate for public health, I urge my colleagues to reject the emotional appeals on both sides, and take the logical middle course offered by this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes. I know that the Senator from New Mexico and others intend to speak.

I mention at this point that I have difficulty listening to the explanation of my friend and colleague from Minnesota, to read the particular description of his amendment; because the way I understand it—and I wrote these words down—he talks about counseling and talks about getting all of the options. I refer our colleagues to just a review of the language on page 2:

"(a) REQUIREMENT.—Except as provided in subsection (b), entities receiving financial assistance under this title (whether by grant or contract) shall be required to refer individuals who are pregnant for appropriate prenatal medical care, by furnishing such individuals with a list of available health care providers.

There is no mention in here about counseling. That is an extremely important aspect of the Chafee amendment. We will have more of a chance to get into the amendment. This is of great interest. I thought we had an argument in favor of the Chafee amendment when he was talking about counseling and the range of options. I reread this amendment closely, and we will have a chance, perhaps during the course of the debate, to review at least that observation in greater detail. I did indicate that the Senator from New Mexico had a willingness to yield at the time on the general issue of the Chafee substitute. I will be glad to yield 6 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank the Senator from Massachusetts for yielding me time to speak on the issue. I am a strong supporter of the Chafee amendment and the underlying bill. I commend the Senator from Rhode Island, Senator ADAMS, and Senator KENNEDY for their leadership on this issue.

Mr. President, for 20 years the title X family planning program has provided low-income women and teenage girls with essential medical care. This is care to which they otherwise might not have had access. One of the program's major objectives has been to provide pregnant women and teens with nondirective counseling, and to give them all of the information that they need to make an informed choice between parenting, adoption, and pregnancy termination.

Since its inception, however, the scope of the program has been expanded to meet the ever-increasing health care demands of the recipients. As a result, title X clinics now provide their clients with screening tests for cancer, tests for AIDS, high blood pressure, and diabetes. They treat infections and sexually transmitted diseases. These clinics do—and they should continue to—provide clients with comprehensive health care.

Mr. President, regrettably, Chief Justice Rehnquist, in writing the majority decision in Rust versus Sullivan, failed to recognize this fact when he justified an extension of the gag rule on the grounds that the regulation does not "significantly impinge upon the doctor-patient relationship," referring to that relationship between title X recipients, who should not, in his words, expect to receive "comprehensive medical care." This reasoning, in my view, is a shallow attempt to rationalize the Court's decision to suppress free speech and to deny underprivileged women equal access to information that will enable them to make responsible decisions about their health care options.

Mr. President, I am disturbed by the Court's presumption that the Federal Government has the right to withhold information from women and teens regarding their own health and reproduction. I believe Congress should reject the Court's attempt to legitimize a two-tier health care system, one for wealthy women and one for impoverished women and teenage girls.

Mr. President, I am not a physician, and like most of my colleagues, I have not had any medical training, but I believe that if we do not reject this decision of the Supreme Court in Rust, we will see the effectiveness of these family planning clinics severely undermined. If the legislation fails and the gag rule remains in effect, I do not think we are going to be able to attract health care professionals that we need, whether they are physicians, or nurse practitioners, or nurses, to work in these clinics and to maintain them as viable institutions.

I think of my own situation as an attorney, and the career that I began a little over 20 years ago in the New Mexico Attorney General's Office. Mr. President, I analogize this issue somewhat to a situation where an attorney applies for a position in the public defender's office, for example—and I did not apply for such a position, but I might well have. A young attorney goes in to work in a public defender's office, and he is advised that he can have a job, but there is a regulation in the Department of Justice that says that you can defend people, but in giving them advice, you need to be sure that you do not advise them of their right against self-incrimination, because the Justice Department has made a decision that although that is a constitutional right—just like the right to have an abortion is in our country—the Justice Department has decided that we no longer believe of informing people of that particular right. We believe, instead, that a majority of the people in the country who are accused of crimes ought to confess to those crimes, and we ought not to use taxpayer dollars to inform them they have a right not to confess. If something like that were explained to me or any young attorney applying for a job, I am certain they would refuse to work in that circumstance.

This may be an unusual analogy, but from my perspective as a lawyer, the Supreme Court's decision in Rust could be interpreted to extend beyond this issue before us today and to allow that Department, in that case the Justice Department, to restrict the use of public funds in public defender's offices from being used to inform clients of some of their constitutional rights.

This is a terribly dangerous precedent to set, and, in my view, it should not be allowed to stand.

Unfortunately, the Supreme Court decision in Rust shows a real lack of understanding of basic rights within our country. I hope my colleagues will see this issue more clearly and will vote to pass this legislation.

In closing, I would simply add that we have a long tradition in this country and in our system of jurisprudence of maintaining a particular relationship between the attorney and the client and between the physician and the patient, and the Government has had the good sense to stay out of that relationship. The Government has allowed those professionals to give advice as they saw fit. We need to protect that. In my view, unless we do so, federally funded family planning clinics around the country will not be effective because health care providers simply will not agree to work in those. I believe this would be a tragic and unjustifiable consequence for thousands of low-income women and teenage girls around the country.

Mr. President, for that reason I hope to reject the amendment offered and support the Chafee amendment and the underlying bill. Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair inquires who yields time.

Mr. KENNEDY. I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. CHAFEE. Mr. President, first I say about this amendment, and any time we have an amendment on health care matters from the senior Senator from Minnesota, it deserves our attention because I do not think anybody in this Senate has worked harder on health care matters than Senator DURENBERGER. When he presents an amendment, obviously it comes as a result of deep concern and care as evidenced by the past record he has achieved in this Senate.

Therefore, I look at this amendment extremely carefully and find some

points that I would differ with my colleague on. First, I think it would be a mistake to call this amendment a compromise. This amendment is indeed the administration's amendment. What it does is it takes the present regulations that are in effect now and codifies them.

Mr. President, I particularly would refer to the section that the distinguished Senator from Massachusetts was referring to and that is section 1010(a). Before going into detail on that I would just like to say, why are we here? Why are we all debating this? What caused all this to come about?

This came about because the rules of the game, if you would, the rules under which we were proceeding that remained in effect throughout the Reagan years from 1981 to 1988, were very clear and those rules were changed. The rules under 8 years of President Reagan and, mind you, no one ever called President Reagan soft on termination of pregnancy, the rules were explicit. What they said is printed right out in regulations: That when a woman went to a title X clinic, that woman was given the following advice.

Counseling, and if she asked for her options she was to be given the following options: Option 1 was prenatal care, carry the baby to term, and keep it. Second, was carry the baby to term and put it out for either foster care or adoption. And, third, termination of pregnancy. That was required, written right in the regulations, and that is the way life operated in the title X clinics for 7 plus years.

In 1988, over in HHS they changed the rules and they said no, they cannot give the woman her options, that that was wrong. They could not give her the third option of termination of pregnancy.

The Senate of the United States, by a vote of 62 to 36, stated that they felt that was just plain wrong. That was a gag rule. If she could afford it and could go to a doctor she would get her options. Indeed, if she did not get her options that doctor was guilty of malpractice. But, if she went to a title X clinic, because the Government was paying part of it, she could not get her options. We felt that was just plain wrong and that is why we are here today.

I would refer now to section 1010. As I understood the presentation by the distinguished Senator from Minnesota, he said that she is told her options. But if you look at the language, you will see—and I will just read this—that she comes in and—"* * *shall be required to refer individuals who are pregnant for appropriate prenatal medical care by furnishing such individuals a list of available health care providers."

OK. No argument there.

"Such list may include available prenatal providers who perform abortions." "May." But it is not "shall." In other words, she is not given her full range of options. And nowhere, I believe, unless the Senator will correct me and if I am wrong I would be very glad to know it. Maybe I would not be so glad to know it, but I would be informed anyway that she is given her range of options, but, no, she is not. So I just do not think that is fair. I do not think that meets the problem of why we are here. We are here trying to see that she receives nondirective counseling.

The second point I wish to make about what I find to be a major flaw in the amendment is that in the title X clinic she is not given any counseling. In effect she is given a list. You are now determined to be pregnant, and you go down the street to A, B, or C hospital, such and such clinic, and there you will be taken care of.

Mr. President, that, I feel, would be a very, very serious mistake. What kind of women are we dealing with? We are dealing with, in most cases, young women, by definition low-income women. We are dealing with those who are distressd and upset. They discover they are pregnant; they just do not know what to do. Mr. President, all too often these are women who are not within the health care system.

We in this Chamber were brought up that when something is wrong our parents said go to the doctor, and they called up, and we went to the doctor, and everything was taken care of.

We are dealing with a segment of our population who do not have access to doctors, who cannot afford it, who are not in the habit of going to doctors, and statistics very clearly show that a shocking percentage of our pregnant population do not go see a doctor until the third trimester, if indeed they go then. These are women who are not in the system.

I believe very, very strongly that when they have taken the trouble to come to this title X clinic, that is an effort on their part, that we should at least give them some counseling. Outline their options, yes, that is part of it, but not the principal part. We want that. That has to be a part of it. But there is more than that. It is at this occasion, that the counselor says, look, do not smoke, do not drink, take care of yourself. There are certain things you should and should not do. It is not complicated. It does not take a gynecologist or a trained specialist in MD. It can be a nurse practitioner; it can be the counselor who is there who knows these requirements that a pregnant woman should follow.

But under the Durenberger amendment, unfortunately, such is not true. The woman is sent out, she goes elsewhere, and the danger is that then she will be lost to the medical health care system. I certainly know that is not the intention of the distinguished Senator from Minnesota who, as I say, has a long interest in this matter. But that is what is going to, unfortunately, occur.

I come from a very urban State. I come from a State where, through our health department, not only when I was Governor but continued since, every effort is made to bring these low-income women into the health care system and, of course, especially if they are pregnant. But we are not successful. We have a very high percentage of our population of which English is not their first language and that group is particularly difficult to bring into the system.

So when somebody makes the effort to come, we want to make sure we give them every possible assistance we can and not give them a list and send them out the door, down the street, and it is not just down the street, it is several blocks, several miles, frequently.

And I might also say this, Mr. President. This is the very group that does not have access. Let us say they qualify for Medicaid—and, by the way, to qualify for Medicaid, they have to go through a whole series of hoops. They have to go down to the office, they have to state their financial condition, they have to state whether AFDC or whatever the program is, and they do not then have a doctor right there to take care of them. That is what we are talking about, this whole lack of access in the American health care system.

Every doctor will not take Medicaid patients. Indeed, if they find one that will, there is a wait. You might think, "Go to a community health center." Community health centers do not have to take everybody that comes in the door and, bingo, everybody can be taken care of. There are waits and delays and lines. So the person you can advise and counsel about taking care of herself during her pregnancy does not get the information the next day, even if they are attentive enough to follow up.

What I am afraid of is that, indeed, this is the very kind of person that will drop through the cracks in our medical care system and will not show up again until maybe the third trimester.

So, Mr. President, I find great flaws within the amendment. As much as I respect the author, I find great flaws with the amendment as presented by the distinguished Senator from Minnesota.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. DIXON). Twenty-five minutes thirty-seven seconds.

Mr. KENNEDY. Mr. President, I yield myself 8 minutes.

Mr. President, I think there is very little argument, certainly from me and I would imagine from the other Members of the Senate, in stressing and emphasizing and encouraging good prenatal care for those that want to bring

their child to term. And we have made some progress in that area in the very recent years. We have made it in the Medicaid program in the last few years. We have developed comprehensive child development programs which are to go back and treat children from early pregnancy all the way, actually, up to kindergarten, recognizing the enormous importance of quality health care, prenatal care.

But as the Senator from Rhode Island has pointed out, what we are effectively doing is the codification of the administration's recommendations in 1988.

Mr. President, I want to add a point to what the Senator from Rhode Island has mentioned with regard to nurse practitioners, because there were comments that were made earlier in the course of the debate, not by the Senator from Minnesota but from others, sort of demeaning these various medical professionals that are serving in these various clinics, and that is a real disservice.

The types of nurse practitioners that operate or that work under physicians' supervision, which is the case for these various clinics, one, have an additional year of academic training and then 2 years postacademic training before they are effectively certified to work in these various clinics. And the interesting view is that in examining the quality work of these nurse practitioners, it has been determined that they have, by and large, much more effective communication skills with the kind of individuals that come into the family planning clinic. I think it is probably understandable and probably quite obvious. But that has been one of the very important evaluations that have been made of the various clinics to date. And it is important because there were comments made earlier about the qualifications of these nurse practitioners and I think it is important to correct the record.

Finally, Mr. President, we are, once again, as has been pointed out, really talking about what is an illusion and continues to be an illusion no matter how many times some of our friends and colleagues say that it is not an illusion, it is a reality.

I heard earlier in the course of the day that what we are really talking about here are Federal funds that will be used for the performance of abortion. I think Senator CHAFEE and others who have supported his position with regard to the gag rule have clarified what their position is and what the public policy question is before the Senate. But these charges, these allegations have been made at other times in this body and in other forums.

I think it is important, Mr. President, to look back at other times, even after the promulgation of the regulations in 1981 when my friend and colleague from Utah and former colleague from Alabama, Senator Denton, requested GAO to look into whether these clinics were mixing and commingling the funds that were being provided under title X and with other private funds or wherever the funds may be raised that were going to be in support of abortion.

The GAO Comptroller General's report is very clear—and I would include the appropriate parts in the RECORD.

Mr. President, I ask unanimous consent that the GAO report be printed in the RECORD.

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

[Report by the Comptroller General of the United States, Sept. 2, 1982]

RESTRICTIONS ON ABORTION AND LOBBYING ACTIVITIES IN FAMILY PLANNING PROGRAMS NEED CLARIFICATION

Some family planning grant recipients' practices raised questions as to whether they comply with restrictions on abortion-related activities, but there was no evidence that title X funds had been used to pay for abortions or to advise clients to have abortions. The Department of Health and Human Services (HHS) needs to set forth clear guidance on the scope of abortion restrictions in its title X program regulations and guidelines.

Even if this is done, title X recipients would still be allowed to carry out abortion activities—not with title X funds, but as a part of their overall activities by organizationally separating the title X family planning program. The Congress may want to clarify its intent if it does not want title X funds to go to organizations providing abortions.

Lobbying by recipients was generally not paid with title X program funds and therefore not subject to Federal lobbying restrictions. However, recipients incurred some expenses that raised questions as to adherence with Federal lobbying restrictions. HHS needs to make its guidance in this area more specific and consistent.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate.
Hon. JEREMIAH DENTON,
Chairman, Subcommittee on Aging, Family and Human Services, Committee on Labor and Human Resources, U.S. Senate.

In accordance with your September 8, 1981, request we have reviewed the family planning program authorized by title X of the Public Health Service Act to determine whether title X funds have been used to finance lobbying activities or to support abortion-related activities.

Comments were obtained only from the Department of Health and Human Services and not from individual grant recipients included in our review. In accordance with our policy, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to the Secretary of Health and Human Services; the Director, Office of Management and Budget; other interested congressional Committees and Subcommittees; the grant recipients included in the review; and other interested parties.

CHARLES A. BOWSHER,
Comptroller General of the United States.

DIGEST

Title X of the Public Health Service Act authorizes the Department of Health and Human Services (HHS) to make grants for a broad range of family planning services. Recipients of title X funds, however, are restricted from using program funds for abortions or certain abortion-related activities and for lobbying.

At the request of the Chairman of the Senate Committee on Labor and Human Resources and the Senate Subcommittee on Aging, Family and Human Services, GAO reviewed the activities of selected title X grantees operating family planning clinics to determine whether title X funds were being used for such activities.

CLARIFICATION OF ABORTION RESTRICTIONS NEEDED

GAO found no evidence that title X funds had been used for abortions or to advise clients to have abortions. Since, 1971, HHS has held that the restrictions of section 1008 prohibiting the use of title X funds "* * * in programs where abortion is a method of family planning" are applicable to only that part of a recipient's operation supported by title X. HHS' interpretation of section 1008 allows title X recipients to use non-title X funds to carry out abortion-related activities which would not be allowed as part of the title X program, so long as the abortion activities are separated from the title X family planning services.

Thus, HHS' policy allows title X recipients to use organizational techniques to insulate the title X program from abortion activities prohibited by section 1108 and thereby not jeopardize their eligibility for title X funds. Because the distinction between the recipients' title X and other activities may not be easily recognized, the public can get the impression that Federal funds are being improperly used for abortion activities.

About 74 organizations receiving title X funds perform abortions at clinics located with family planning programs. Under HHS' policy, these agencies can organize family planning and abortion activities into separate programs and still comply with the HHS interpretation of section 1008.

Congressional guidance may be needed if the Congress does not want title X to go to organizations providing abortions.

FAMILY PLANNING CLINICS NEED FORMAL GUIDANCE ON ABORTION-RELATED MATTERS

HHS has traditionally held that section 1008 not only prohibits abortion as a method of family planning, but also prohibits activities which encourage, promote, or advocate abortion. These policies evolved from a series of HHS' legal opinions, but have never been set forth in regulations or guidelines—HHS' formal mechanisms through which policy is provided to grant recipients. In addition, the legal opinions do not always reach clinics and sometimes "draw a fine line" between allowable and unallowable activities, thereby failing to provide clear guidance on abortion-related matters.

GAO reviewed the activities of 14 family planning clinics to determine whether title X funds were being used for abortion-related activities. Although only six clinics had received copies of the legal opinions, clinic staff who counsel title X clients generally said they were aware of HHS' abortion policy

restrictions, and GAO found no indications that any women were advised or encouraged to have abortions. However, GAO found variations in clinic practices, some of which GAO believes are questionable in light of HHS' interpretation of section 1008. These include:

Counseling practices which do not present alternatives to abortion.

Abortion referral practices which may go beyond HHS' referral policy.

Using educational materials which present barrier methods of contraception with early abortion in care of failure as a method of family planning.

TITLE X RECIPIENTS NEED MORE SPECIFIC GUIDANCE ON LOBBYING

Using title X program funds for lobbying—attempting to influence legislation or appropriations pending before the Congress—is restricted by Federal appropriations laws, HHS' regulations and instructions, and the Office of Management and Budget's (OMB's) guidance. However, neither HHS nor OMB has specifically identified activities that constitute lobbying. Also, Federal guidance setting forth restrictions on dues paid to organizations that lobby is inconsistent between public and other non-profit title X recipients.

All seven title X recipients reviewed for lobbying had incurred expenses that, in GAO's opinion, raised questions as to adherence with Federal restrictions. Two recipients lobbied, but GAO could not determine from their records whether program funds were used. Most lobbying expenditures of the other five recipients did not involve program funds and were therefore not subject to Federal restrictions. However, of these five, all used programs funds to pay dues to organizations that lobby; and two used small amounts of program funds to lobby at the Federal and/or State level.

While Federal cost principles clearly prohibit public organizations from using program funds for dues to organizations that do substantial lobbying, the cost principles for other nonprofit organizations are silent on this restriction. Nonetheless, such expenditures could be questioned in light of the restriction in HHS' appropriation law that the funds cannot be used to pay the salaries or expenses of any grantee, contractor, or their agent to engage in any activity designed to influence legislation pending before the Congress.

Two recipients used small amounts of program funds to attend conference during which lobbying took place and to correspond with members and/or staff of the Congress to advocate for or against pending legislation. One recipient displayed a poster at a title X clinic that urged clients to write the Congress to defeat pending legislation banning abortion. While any use of program funds in this lobbying effort was indirect, HHS holds that title X recipients are not to advocate abortions or promote a favorable attitude toward abortion.

HHS has recognized the need to establish more specific guidance on lobbying and the payment of dues to lobbying organizations. In this regard, HHS has initiated action to amend the cost principles for grantee organizations.

RECOMMENDATIONS TO THE SECRETARY OF HHS

Pending revision of Federal cost principles, GAO recommends that the Secretary provide interm guidance to title X recipients on activities that constitute lobbying and are therefore unallowable as program expenditures.

GAO also recommends that the Secretary establish clear operational guidance by incorporating into the title X program regulations and guidelines HHS' position on the scope of the abortion restriction in section 1008.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Even if the abortion-related recommendation to the Secretary is implemented, title X recipients would still be allowed to carry out abortion activities—not with title X funds, but as a part of their overall activities by organizationally separating the family planning program from those activities.

Because of the sensitivity of the abortion issue and the concern over how Federal family planning funds can be used, the Congress may want to provide guidance to HHS to clarify the intent of section 1008.

AGENCY COMMENTS

HHS agreed with GAO's recommendations. HHS plans to incorporate in its title X guideline an explanation of its position on the implementation of section 1008 and to publish proposed regulations defining lobbying activities by title X and other grant recipients that are unallowable. GAO obtained comments only from HHS.

CHAPTER 1—INTRODUCTION

In a September 8, 1981, letter, the Chairmen of the Senate Committee on Labor and Human Resources and the Senate Subcommittee on Aging, Family and Human Services requested that we review selected aspects of the title X family planning program concerning compliance with prohibitions in Federal statutes governing abortion-related activities and lobbying. (See app. I.) Our review focused on the Department of Health and Human Services' (HHS') policies and practices for implementing and monitoring compliance with those Federal laws and the practices at selected title X recipients.

Background

The Family Planning Services and Population Research Act of 1970 (Public Law 91-572) added title X to the Public Health Service Act. Project grants with public and private nonprofit organizations, operating voluntary family planning projects and clinics, are the major component of the title X program.

The 1970 Act established within HHS' Public Health Service an Office of Population Affairs to be directed by a Deputy Assistant Secretary. The act intended that the Deputy Assistant Secretary would administer all of the HHS programs related to family planning and population research and coordinate all domestic and international family planning activities administered by the Federal Government. In practice, however, family planning programs are administered by HHS' component agencies and the Deputy Assistant Secretary coordinates efforts.

The Office for Family Planning within HHS' Bureau of Community Health Services has overall responsibility for the title X program. The Bureau sets policy, issues guidance, and allocates funds for services to HHS' regional offices, which are responsible for the day-to-day administration of the Federal title X family planning program.

HHS' regional offices directly fund some organizations which provide family planning services, but most title X funds are awarded to intermediate organizations which distribute grant funds to delegate agencies that operate clinics. The intermediate organizations are responsible for administering the grant and for overseeing the activities of their delegate agencies. For example, Genesee Region Family Planning Program, Inc., in New York is an intermediate organization which funds seven delegate agencies that operate several clinics. It is responsible to HHS for the overall grant administration and, in turn, holds its delegate agencies responsible for proper administration of their respective subgrants.

Since 1970 HHS has provided over $1 billion for project grants for family planning services under title X. In fiscal year 1982, $124.2 million was appropriated for title X activities of which $120.9 million was for family planning project grants. HHS awarded title X funds for family planning services to 223 direct grantees which funded 943 delegate agencies operating about 4,200 clinics. The type and number of grantees were as follows:

Types and number of title X grantees

[As of Apr. 1, 1981]

Public:	
State health departments	36
County health departments	33
City health departments	7
Trust territory health departments	6
Subtotal	82
Other nonprofit:	
Coordinating councils	90
Planned parenthood affiliates	31
Hospitals	12
Universities	8
Subtotal	141
Total	223

Family planning services provided by these grantees typically include:

Physical examinations.

Laboratory tests.

Education and counseling concerning reproductive health and methods of birth control.

Prescribing and distributing contraceptives.

Sterilization.

Pregnancy tests.

Pregnancy counseling.

Infertility services.

Special services for teenagers.

Most clients of title X-supported clinics are not pregnant and generally receive only physical examinations, education on contraceptive methods, and services related to birth control. In 1978, the latest year for which national data were available, about 162,000 of the 1,466,000 women (or 11 percent) making their first visit to family planning clinics received pregnancy tests.

Statutory restrictions on abortion-related activities and lobbying

Activities related to abortions and lobbying are restricted by Federal laws. Section 1008 of title X states that "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." Restrictions on lobbying primarily stem from provisions in several annual appropriations acts that provide that no appropriated funds shall be used by grantees to influence legislation pending before the Congress.

Objectives, scope, and methodology

Abortion-Related Activities

We reviewed HHS' program regulations and guidelines and other policy guidance implementing section 1008. We reviewed the grant awards and administration procedures followed in 6 of HHS' 10 regions. At each region, we interviewed program officials and exam-

ined grant documents to see how section 1008 was interpreted and implemented. These 6 regions administer grants totaling $98 million (or about 80 percent) of the title X funds.

To test for compliance with the HHS policies, we reviewed the activities of 14 family planning clinics in California, Kentucky, Massachusetts, Maryland, Ohio, Texas, Vermont, and the District of Columbia. (See app. II.)

At the 14 clinics, we reviewed local policies and practices; interviewed staff responsible for counseling, education, and referral activities; ascertained the guidance furnished by HHS to title X recipients; and reviewed a limited number of client records selected randomly. In total we examined 474 records of pregnant clients to verify clinic counseling and referral practices. We do not consider this test to be representative of all title X clinics and the results should not be projected. We did not contact clients to obtain their views on the counseling provided because of concern about breaching client confidentiality.

We judgmentally selected the 14 clinics to provide for (1) geographic distribution of locations nationwide, (2) different types and sizes of title X recipients, and (3) rural and urban clinic settings. In selecting these locations, we avoided the title X recipients who were included in recently completed or ongoing audits by HHS' Inspector General.

In addition, to ascertain how title X recipients that also provide abortions as part of their overall operations comply with HHS guidance, we conducted limited audit work at certain other title X clinics that provide family planning services and abortions. These clinics were located in California, Ohio, and New York.

The demographic data requested on clients who are pregnant when they first seek services in title X clinics are not collected by HHS' data systems, and comparative analysis of clients referred for abortions and educational materials used in public and private clinics could not be made. We did not undertake statistical tests to obtain the data because of the length of time that would have been required.

On February 22, 1982, HHS issued proposed regulations which would, among other things, require notification of the parents of unemancipated minors provided prescription methods of birth control. These proposed regulations are intended to implement section 931(b)(1) of the Omnibus Budget Reconciliation Act of 1981. At the time of our review these regulations had not been finalized.

Lobbying Activities

Our review of title X recipients' lobbying activities focused on (1) identifying Federal laws, regulations, instructions, and other guidance applicable to lobbying by recipients and (2) determining whether recipients used Federal funds for lobbying. To ascertain whether grant recipients had sold or donated mailing lists to political candidates or organizations we held discussions with and reviewed the records of seven recipients. We found no indication that this practice occurred. In addition, we identified no Federal laws or regulations which prohibit this practice by grant recipients where it is not precluded in applicable grant documents.

We interviewed officials in HHS' Office of the Assistant Secretary for Management and Budget; Public Health Service's Office of Population Affairs, Bureau of Community Health Services, and Office for Family Planning; regional offices; and selected title X recipients to identify Federal lobbying restrictions and guidance provided to recipients. In addition, we interviewed (1) officials of the Office of Management and Budget (OMB) to identify existing and/or proposed lobbying restrictions in OMB circulars and (2) representatives of the Internal Revenue Service to discuss lobbying restrictions imposed on nonprofit, tax-exempt organizations.

Our review included work at seven nonprofit title X recipients in California, New Jersey, New York, and the District of Columbia. (See app. II.) We visited five grantees—three coordinating councils and two Planned Parenthood organizations—and two other Planned Parenthood organizations operating as delegates of two of the coordinating councils. All received title X grants or subgrants for $125,000 or more. The five grantees included in our audit received about $8.4 million of title X funds during their most recent budget period. These grantees and delegate agencies were selected judgmentally considering, among other things, their size, and avoiding duplicating locations included in recent audits by HHS' Inspector General. Planned Parenthood organizations were included because the requestors asked questions specifically about such organizations. Coordinating councils—nonprofit recipients covered by the same OMB circulars as Planned Parenthood organizations—were included so that a range of family planning organizations was represented. The largest delegate agency of two coordinating councils was also reviewed. The organizations reviewed are not statistically representative of title X grant recipients.

At the recipient level we interviewed the executive director, financial director, board members, and other representatives to ascertain whether they lobbied and whether title X program funds were used. We reviewed grant applications and budgets, financial expenditure reports, and audit reports and traced selected expenditures to source documents to ascertain whether they were related to lobbying activities. We also reviewed correspondence files, board minutes, and annual reports to the Internal Revenue Service to identify potential lobbying activities.

Our audit approach varied somewhat for each grant recipient because they had different accounting systems, received grants covering different periods, and were organized differently. In all cases, however, we reviewed selected expenditures made during January to June 1981, the period when the Congress was considering incorporating the title X program into a block grant, and during which time several bills were being considered in the Congress to limit the availability of abortions. We believe lobbying, if it occurred, would most likely have occurred during this period.

Our review did not include work at Planned Parenthood Federation of America because (1) according to HHS officials, the Federation did not receive title X funds during the period covered by our review and (2) as agreed with the requestors' offices, the results of our work on lobbying activities at the seven grant recipients did not indicate that further work was warranted.

Comments were obtained only from HHS and not from individual grant recipients included in our review.

As agreed with the requestors' offices, no work was done to determine how the effectiveness of the program can be evaluated because the title X program was being considered for inclusion as part of a block grant.

Our review was conducted in accordance with the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

CHAPTER 2—CONGRESSIONAL CLARIFICATION OF ABORTION RESTRICTIONS IS NEEDED

HHS' policy allows title X recipients to use organizational techniques to insulate the title X family planning program activities from abortion activities prohibited by section 1008, thereby not jeopardizing their eligibility for title X funds. That policy, established in 1971, stems from HHS' position that the restrictions of section 1008, prohibiting the use of title X funds "* * * in programs where abortion is a method of family planning" are only applicable to that part of the recipient's activities supported with title X funds. HHS' interpretation has created the impression, in some instances, that federally funded title X family planning clinics are engaging in prohibited activities.

In view of the sensitivity of the abortion issue and concern over how Federal family planning funds may be used, the Congress may want to clarify the intent of section 1008.

Organizational arrangements used by some family planning clinics

HHS estimates that about 74 organizations (46 hospitals, 21 Planned Parenthood affiliates, 4 other nonprofit organizations, and 3 public health departments) receiving title X funds also perform abortions at clinics colocated with family planning programs.[1] While such organizations are expected to maintain physically separate family planning and abortion programs and separate records to account for each program, they are allowed to share facilities and staffs and to prorate common expenses. The examples below describe the organizational arrangements used by two title X recipients which enable them to provide both abortion and family planning services while still complying with HHS' policy.

Example 1

HHS has funded a nonprofit family planning organization located in Columbus, Ohio, since 1971. In 1978, the organization established a separate but controlled corporation for the sole purpose of providing first trimester abortions. The title X recipient has effective control of the corporation through interlocking trustees and the exclusive right and power to nominate and elect trustees.

The abortion and family planning clinics operate simultaneously on Wednesdays and Fridays in the same three-story building, with nothing on the exterior of the building indicating the existence of two separate operations. The abortion clinic leases space on the second floor from the title X recipient, and the family planning clinic occupies the third floor. Under an informal agreement, the abortion clinic pays the title X recipient a management fee for services of the executive director and financial manager. Two other employees of the family planning clinic also work for the abortion clinic. The family planning clinic refers clients to the abortion clinic, but separate medical charts and patient accounts are established and maintained.

According to the executive director, the title X recipient established the separate corporation in order to avoid the appearance of violating restrictions imposed by section 1008. The abortion clinic performs about 1,000 abortions per year.

Example 2

HHS has funded a nonprofit organization in New York City which operates both abortion and family planning clinics. This title X

recipient operates the abortion clinics under the same corporate organization, but separates the programs by scheduling clients at different times. At its Brooklyn clinic, for example, the scheduling was as follows:

	Abortion clinic hours	Family planning and abortion postoperative hours
Tuesday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.
Wednesday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.
Thursday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.
Friday	None	11 a.m. to 7 p.m.
Saturday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.

Both the family planning and abortion clinics are staffed by the same personnel, and the medical director for the family planning program generally performs the abortions for the clinic as well. The clinic director said that the abortion and family planning clinics' schedules did not overlap and that clients were not commingled.

The expenses of the clinic operations are maintained in separate accounts. All direct costs are charged specifically to family planning, abortions, or laboratory services as appropriate and indirect costs are prorated. Unlike the operation in the Ohio example, separate medical charts and patient accounts are not maintained, and all abortion clients are counted as family planning clients in the HHS reporting system. In 1980 the Brooklyn clinic served 4,462 contraceptive clients and performed 2,341 abortions.[2]

Basis for HHS' policy

HHS' policy which permits funding organizations which operate abortion clinics outside the title X program is based on its assessment of the legislative intent. According to HHS' General Counsel, the most significant expression of that intent is contained in the Conference Report accompanying the Senate bill which eventually became Public Law 91-572. The Conference Report contained the following statement:

"It is, and has been, the intent of both Houses that the funds authorized under this legislation are used to support *preventive* family planning services, population research, infertility services and other related medical, informational, and educational activities. The conferees have adopted the language contained in Section 1008, which prohibits the use of such funds for abortion, in order to make clear this intent. *The legislation does not and is not intended to interfere with or limit programs conducted in accordance with State or local laws and regulations which are supported by funds other than those authorized under this legislation.*"[3] *(italic added.)*

In addition, HHS considers the statement on the floor of the House by the sponsor of section 1008 to be another major source of congressional intent:

"Mr. Speaker, I support the legislation before this body. I set forth in my extended remarks the reasons why I offered the amendment which prohibited abortion as a method of family planning * * *"

* * * * *

"With the 'prohibition of abortion' the committee members clearly intended that *abortion is not to be encouraged or promoted in any way* through this legislation."

* * * * *

"Programs which include abortion as a method of family planning are not eligible for funds allocated through this Act."[4] (italic added.)

Based on these expressions of the congressional intent, HHS has adopted the view that section 1008 prohibits (1) the provision of abortion as a method of family planning and (2) activities that promote or encourage the use of abortion as a method of family planning—but only when included in "programs" funded by title X.

Implementation of HHS' policy position at the local level can leave the impression that title X funds have been improperly used when recipients also operate abortion clinics. For example, HHS region V received a letter alleging that the abortion clinic operated by the Ohio organization discussed in example #1, "* * * invites the abuse of public funds in terms of channeling federal monies into the operation of an abortion clinic * * *." The individual was advised by HHS regional officials:

"* * * that to persons not intimately familiar with a given situation, the operation of an abortion facility at the same site as a federally sponsored family planning clinic brings to mind the possibility of inappropriate sharing of resources and undue influences on family planning services * * *."

Thus, the HHS policy permits title X recipients to organize so as to conduct abortion activities under a separate "program" without jeopardizing their eligibility for title X funds.

Matters for consideration by the Congress

HHS' interpretation of section 1008 allows title X recipients to use non-title X program funds to carry out abortion-related activities which would not be allowed as part of the title X program, so long as the abortion activities are organizationally separated from the title X family planning services.

Because of the sensitivity of the abortion issue and the concern over how Federal family planning funds may be used, the Congress may want to provide guidance to HHS to clarify the intent of section 1008 if it does not want title X funds to go to organizations providing abortions.

CHAPTER 3—FAMILY PLANNING CLINICS NEED FORMAL GUIDANCE ON ABORTION-RELATED MATTERS

We found no evidence that women had been advised by title X grantees to have abortions or that title X funds were used to pay for abortions. However, some title X recipients' practices raised questions as to whether they comply with certain title X restrictions on abortion-related activities.

The questions stem from the fact that HHS has not issued formal policy guidance interpreting section 1008. Instead, HHS has relied on a series of legal opinions that often "draw a fine line" between allowable and unallowable activities and these opinions have not always been communicated to all title X recipients.

HHS' interpretation of section 1008

Since early 1971, HHS has taken the position that section 1008 prohibits activities that encourage, promote, or advocate abortion, as well as the use of abortion as a method of family planning, if they are carried out as part of the program supported with title X funds. These policy positions, based on the internal HHS General Counsel opinions, have not been formalized and incorporated into program regulations and/or guidelines.

Based on HHS' legal opinions, the following types of activities related to abortions are allowable under title X programs. Recipients may—provide information about abortion services; provide the name, address, and telephone number of abortion providers; collect statistical data and information regarding abortion; inspect facilities to determine their suitability to provide abortion services; and pay dues to organizations that advocate the availability of abortion services.

Recipients may not—provide counseling that encourages a person to obtain an abortion; provide transportation to an abortion center or provider; provide proabortion speakers to debate the issues in public forums; advocate the need and suitability of abortion service in the community; produce or show movies that tend to encourage or promote a favorable attitude toward abortion; provide abortion as a suitable backup method of family planning; make specific appointments or referrals for an abortion unless medical conditions warrant; bring legal action to liberalize abortion-related statutes; and pressure local governing bodies to change restrictive abortion policies.

HHS' General Counsel has also concluded that, when title X recipients conduct abortion activities which would not be permissible if they were part of the grant-supported program, the recipient must ensure that the title X—supported program is separate and distinguishable from the abortion activities.

This position is contained in the following excerpt from an HHS legal opinion.[5]

"It is recognized that in some situations, the abortion element in a program of family planning services may bulk so large and be so intimately related to all aspects of the program as to make it difficult, if not impossible to separate the eligible and non-eligible items of cost. In such a case, we think a grant for the project would be legally questionable.

"In other words, a mere technical allocation of funds, attributing Federal dollars to non-abortion activities and other dollars to abortion activities, in what is otherwise a discrete project for providing abortion services, would not, in our opinion, be a legally supportable avoidance of the section 1008 prohibition.

"In our opinion, the activities (abortion and non-abortion) must be so separated as to constitute separate programs (projects). As we have already indicated, our conclusion does not require separate grantees or even a separate health facility. However, neither do we think that separate booking [sic] entries alone will satisfy the spirit of the law."

Over the years a fine line between allowable and unallowable activities has evolved as illustrated by the following examples:

Recipients may use title X funds to pay the cost of inspecting abortion facilities to see that they meet national Planned Parenthood Federation of America standards, but may not make an appointment for or direct clients to those facilities.

Title X funds may be used to pay dues to organizations that advocate the provision of abortion as a backup for contraceptive failure, but may not be used to advocate the need for and suitability of abortion in the community.

Title X funds may not be used to pay transportation costs for women to go to abortion clinics, but recipients may provide or arrange such services under that part of their operation not supported with title X funds. Similarly, the recipients may, under their separate programs, make loans to women to pay for abortions.

HHS' program regulations and guidelines do not reflect its policy on abortion restrictions

The position that section 1008 not only prohibits abortion as a method of family planning, but also prohibits activities which promote or encourage a favorable attitude toward abortion as part of the title X program has not been incorporated into HHS' regulations or guidelines. In contrast, HHS relies on its program regulations[6] and guidelines to provide guidance on other major policies

to title X recipients. In effect, HHS' regulations that spell out overall policy and implement provisions of the law and corresponding program guidelines that elaborate on the law and regulations in operational terms do not contain the specific policy guidance concerning section 1008 needed by title X recipients.

We could not determine from discussions with HHS' officials the reasons why HHS elected to exclude from its regulations and guidelines its position on the scope of prohibitions in section 1008. HHS' regulations (dated June 1980) and its prior regulations simply state that title X projects shall not "* * * provide abortion as a method of family planning." The policy that section 1008 also prohibits activities which promote, encourage, or advocate abortion are not mentioned in HHS' regulations. Also, the HHS program guidelines for family planning services refer to the title X program regulations with no elaboration on the meaning of section 1008.

HHS, however, has periodically issued memorandums to its regional program administrators containing Office of General Counsel interpretations of section 1008. Five or six regions we visited had transmitted this information to grantees, but only 3 of the 10 grantees passed it on to their delegate agencies and clinics. Of 14 clinics visited, only 6 had received HHS' legal interpretations of section 1008.

While this process made HHS' policy available to some title X clinics, the policy was nevertheless not included in the regulations and guidelines that grantees are required to follow as a condition of their grants. For example, the title X grantee in Los Angeles, according to its executive director, has received no written guidance from HHS on interpreting section 1008. This grantee, one of the largest nationally, had 26 delegate agencies that operated 94 clinics.

Some counseling and referral practices may not be appropriate

Under the HHS program guidelines, pregnant women should be offered information and counseling regarding their pregnancy. The guidelines state that individuals requesting information on options for managing an unintended pregnancy are to be given nondirective counseling[7] on the options available and referred upon request, including being referred to abortion providers. At the clinics reviewed, the number of pregnant clients coming to clinics for their first visit represented between 5 and 69 percent of the clientele.

At 10 of the the 14 clinics visited. counseling was available through the title X-supported programs. At the four other clinics, one did not provide any counseling and the other three provided counseling, but not as part of their title X programs. Officials at all clinics which provided counseling indicated that they provided only nondirective counseling in accordance with HHS guidelines. Referral practices varied from clinic to clinic, and some clinics did not comply with HHS' policy position. We did not find any evidence, however, that pregnant women were advised to have abortions.[8]

Counseling Practices

Typically, counseling of pregnant women occurred after clients received tests that confirmed their pregnancy. When the pregnancy was desired, clients were generally advised to seek prenatal care and given referrals if needed. If a woman indicated the pregnancy was unintended or not wanted, counseling was generally provided. Officials at the 13 clinics offering counseling said that nondirective counseling was available on the following options: Prenatal care and delivery; infant care, foster care, or adoption; pregnancy termination.

The pregnancy counseling provided by clinics varied as shown below:

Seven clinics counseled clients, but only on the option they decided to pursue.

Four clinics counseled clients on all options when the client expressed that the pregnancy was unintended or she was unsure of what to do.

Two clinics counseled all pregnant women on all options available to them.

One of the 13 clinics offered followup counseling to clients referred for abortions, although officials at all clinics said postabortion counseling was available if requested by the clients.

According to HHS' headquarters officials, all options do not have to be discussed, but they believe it is "professionally incumbent" upon the counselors to discuss other options with women who say they are only interested in abortions. When a woman is interested in continuing her pregnancy, HHS' officials said that abortion should not be discussed.

Eleven of the clinics required their counseling staffs to take training and/or participate in an appropriate orientation course covering problem pregnancy counseling and referral policies. The academic background of the staff providing counseling varied. Registered nurses and nurse practitioners often provided the counseling to pregnant clients. At some clinics, counselors had advance degrees in the fields of psychology or social work, and at other clinics the counselors had no formal credentials or degrees in areas related to counseling. Typically, the counselors had not received formal training in counseling pregnant women, but at most clinics counselors had some formal or in-service training in related areas, such as crisis counseling.

We were advised by clinic officials that the topic of abortion and counseling often came up spontaneously during in-service training and other courses. Clinic officials said they always emphasized a nondirective and unbiased approach to counseling pregnant women. Interviews with several counselors showed that they were aware of restrictions against encouraging or advising clients to have abortions.

Questionable Counseling Practices

Seven clinics did not provide counseling on all options available to pregnant women. At one clinic, women were required to complete paperwork before their pregnancy tests and preselect how they intended to deal with their pregnancy. If they chose to continue the pregnancy, they were counseled on that option. If they checked abortion, they were counseled only on that choice. Six other clinics, which did not require prepregnancy test decisions, did not routinely counsel women on other alternatives if they had decided on abortion. Based on the HHS guidelines which recommend that all options be discussed with clients deciding on abortion and HHS' officials views that it is "professionally incumbent" to discuss all options, these practices are questionable.

Referral Process

When clients are counseled and choose to terminate their pregnancies, referrals may be made to abortion providers. The extent to which clinic personnel can assist clients in making abortion arrangements is limited, according to HHS' interpretation of section 1008. HHS' referral policy, however, is not clearly stated in the program regulations or guidelines and certain abortion referral practices by title X recipients raise questions as to whether they go beyond the "mere referral" HHS maintains is permitted under the law.

Title X regulations require that each project provide clients with medical services related to family planning and make referrals to other medical facilities when medically indicated. Therefore, if continuing a pregnancy would endanger the mother's life, a referral to a provider who might recommend or provide an abortion would be medically indicated. However, the regulations are silent on the referral process for abortions in other instances.

Since 1971, HHS has relied on legal opinions that applied the concept of "mere referral" to the restriction imposed by section 1008. Under this concept, title X program funds may not be used to make an appointment for a woman, to provide transportation, or to take other affirmative action to secure an abortion.

The title X program guidelines, issued in 1981, provided that women needing services, which are beyond the ability of the clinic to provide, should be referred to other providers for care. This provision, however, as it relates to abortion referrals, does not reflect the "mere referral" concept traditionally held by HHS. Although HHS' officials advised us that the "mere referral" concept has been agency policy on abortion referral, they did not explain why this policy had not been included in program regulations or guidelines.

We reviewed several clients' charts to determine, among other things, the referral outcomes at the clinics visited. The results of our review cannot be projected, but provide a limited perspective on referral outcomes at these particular clinics. The results are shown on the next page.

Some Clinic Practices May Go Beyond "Mere Referral"

Referral practices varied, but most clinics provided some type of information on the sources of abortion services to clients desiring to terminate pregnancies. By applying HHS's policy, we identified the following practices that could be construed to go beyond the "mere referral" policy:

Four clinics provided clients brochures prepared by abortion clinics. Some of the HHS regional staff were not sure this practice was acceptable, while others felt it was reasonable and within the spirit of HHS' policy.

At two clinics, clients seeking abortions were allowed to use the telephone to make appointments for abortions. HHS' officials were not sure this practice was within the spirit of the HHS policy because it went beyond the concept of providing information with no further affirmative action.

SUMMARY OF REFERRALS MADE BY TITLE X RECIPIENTS

Clinic type	Estimated pregnant women[1]	Records reviewed and age of clients			Type referrals made					
		19 and under	20 and over	Total	Prenatal	Adoption	Abortion[2]	Multiple[2]	None	Not indicated
Public:										
City/county	14	8	6	14	8					6
County	25	10	3	13	4	2	2			5
Do	348	4	46	50	48		1			1
Do	899	18	32	50	27		10	1	3	9
Other nonprofit:										
Planned parenthood	402	11	39	50	15		15	12	1	7
Do	25	11	14	25	1		1	1		22
Do	592	22	28	50	13	1	5			31
Do	50	20	30	50	14		26			10
Do	551	24	26	50	24		21	2		3
Do	(3)	10	12	22	1		19	1	1	
University	220	22	28	50	25	1				24
Do	(4)									
Do	(5)									
Private	53	9	41	50	42			1	3	4
Total	3,179	[6] 169	305	474	222	4	100	18	8	122

[1] Information concerning marital status, race, and previous abortion history was not maintained or was incomplete.
[2] In some instances women received referral for both abortions and prenatal care.
[3] No estimate available.
[4] Clinic did not offer pregnancy counseling.
[5] No client files reviewed—clinic did not have current contract with title X grantee.
[6] In total 116 clients were 18 years old or younger.

At one clinic, appointments for abortions were made for clients who did not speak English. (The HHS Inspector General identified two other instances of counselors making abortion appointments for clients.)

At one clinic, the title X recipient provided women loans for abortions from nonprogram funds; however, administrative costs associated with the referral and loans were charged to title X program costs. (A similar observation was noted by HHS' Inspector General.)

The Office of the Inspector General also identified that several title X clinics in Indiana provided and witnessed the signing of consent forms required by an abortion clinic. This practice is prohibited by section 1008, according to HHS. Since it could be considered promoting abortion. The title X grantee indicated that the consent form was completed only after women had decided to have an abortion and that the practice simply faciliated the abortion decision and did not encourage or promote abortion. HHS regional officials ordered the practice stopped as part of the title X program, and the recipient told us it had passed the instructions to its delegates.

Some educational materials used in title X clinics may be improper

Five clinics routinely offered educational materials to family planning clients that presented abortion as a backup if a contraceptive method failed. Other clinics, however, did not use educational material referring to abortion since they felt it could be construed as encouraging or promoting a favorable attitude toward abortion. Examples of educational material included:

One clinic used a film about birth control methods and sterilization that included a section that presented abortion as a legal alternative in the event of an unwanted pregnancy. This film was shown to all clients entering the large Texas clinic for family planning services. At our request, HHS's regional officials watched the film and concluded the film did not encourage abortion as a method of family planning, but could be construed to be encouraging a favorable attitude about abortions.

Four of the 14 clinics provided or made available to all clients entering the family planning program handout material that discussed abortion. Typically, handout materials listed various birth control methods with the barrier method and early abortion in the event of a failure as an alternative method. According to an HHS General Counsel opinion, section 1008 prohibits the use of abortion as a backup method of family planning and therefore cannot be offered.

Monitoring for compliance with section 1008 is limited

HHS' officials responsible for monitoring the title X program have generally not taken inspection trips solely to check for compliance with section 1008, but they claimed to have looked at compliance with all program guidelines and requirements in instances where onsite inspections have been conducted. In the absence of HHS' regulations and guidelines that elaborate national policy established by section 1008, efforts to closely monitor compliance are difficult.

Officials at four HHS regions said that travel budget cuts and lack of personnel have prevented regular monitoring trips to all grantees. One official advised us that the high visibility of the abortion issue tends to surface possible gross violations and reduce the need for regular surveillance of grantee activities.

HHS' policy requires that all allegations of violations of section 1008 be investigated by a team composed of personnel familiar with all aspects of the title X program and overall HHS' grant administration. We were advised that only one investigation has been made. In this case, the title X recipient was alleged to be: encouraging or promoting abortion by administering a petition calling for liberalized abortion law; providing literature that promoted a favorable attitude about abortion in a common waiting room for family planning and abortion clients; and facilitating abortions by negotiating reduced fees and making arrangements for abortions.

HHS' investigation found that the title X recipient carried out the alleged activities, but could not determine if they were a part of the title X-funded program. The grantee was advised to remove the petitions and abortion materials from the waiting room and to set up a bookkeeping system to keep costs separated. The investigation concluded the practices were minor and technical in nature and did not warrant further action.

Until 1981, HHS' Office of the Inspector General had not made a programwide review of compliance with section 1008. In 1981 the Inspector General reviewed 32 title X grantees, focusing on lobbying and abortion activities. The Inspector General review has been completed and reports on individual recipients have been issued. In addition to the practices discussed on page 18, at one grantee the Inspector General questioned about $400 for malpractice insurance for an abortion clinic charged to the program funded, in part, by title X.

Conclusions

Since 1971, HHS has held that the abortion prohibition went beyond the literal reading of section 1008 and also prohibited activities which promoted or encouraged abortions. However, HHS has neither clarified its policy nor used its regulations and guidelines to communicate to title X recipients its position on section 1008. As a result, a degree of uncertainty exists and some grantees' practices may go beyond what, in HHS' opinion, is permissible under section 1008.

Recommendation to the Secretary of HHS

We recommend that the Secretary establish clear operational guidance by incorporating into the title X program regulations and guidelines HHS' position on the scope of the restriction in section 1008.

In doing so, we recommend that the Secretary consider the grantee practices discussed in this report and in the Inspector General's reports with a view toward providing as explicit guidance as possible on the activities that are and are not allowed.

Agency comments

HHS concurred with our recommendation. The Secretary plans to direct the Assistant Secretary for Health to include in title X program guidelines an explanation of the Department's position on the implementation of section 1008. (See app. III.)

CHAPTER 4—TITLE X RECIPIENTS NEED MORE SPECIFIC GUIDANCE ON LOBBYING

Most of the title X recipients reviewed for lobbying were involved in some types of lobbying activities. Generally, these activities were not paid for with appropriated funds or charged to the title X program and were therefore not subject to Federal lobbying restrictions. However, some title X recipients used program funds to pay dues to organizations that lobby—a questionable expenditure in light of current legislative restrictions and HHS' policies. In addition, some recipients spent small amounts of title X program funds for lobbying.

The current OMB and HHS guidance regarding the use of program funds for the payment of dues is inconsistent, and guidance on lobbying does not specifically identify the types of activities that constitute lobbying and are therefore unallowable as title X program expenditures.

Federal restrictions on lobbying

Federal law prohibits grant recipients from using Federal funds to lobby the Congress—that is, to engage in activities designed to influence legislation or appropriations pending before the Congress. Under HHS' policy, lobbying costs are not normally allowable program expenses. However, HHS has not issued specific guidance which identifies activities that constitute lobbying.

Legislative Restrictions

The use of appropriated funds, including title X funds, to lobby the Congress is prohibited by Federal appropriations legislation. Since the early 1950s, an annual appropriation act restriction has prohibited the use of Federal funds by all executive agencies, departments, and government corporations for "grass roots" lobbying the Congress—appeals addressed to the public to contact the Congress to influence pending legislation.[9] Also, since fiscal year 1974, HHS, in its own annual appropriations legislation, has been prohibited from using appropriated funds for publicity and propaganda to support or defeat legislation pending before the Congress, except when officials are presenting views to the Congress that affect HHS' activities and policies. The scope of these restrictions was expanded by HHS' fiscal year 1979 appropriations act which prohibits HHS' grant and contract recipients from using HHS' appropriations for lobbying the Congress as follows:

"No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress."

These restrictions in Federal appropriations legislation apply only to lobbying the Congress.

Administrative Restrictions

HHS' and OMB's guidance implementing Federal lobbying restrictions are inconsistent and lack specificity.

HHS' guidance generally prohibits the payment of any lobbying costs with program funds, which includes not only title X grant funds, but also non-Federal funds used by recipients to meet their grant matching shares and income generated as a result of the grant. This guidance applies to the use of program funds not only for lobbying at the Federal level, but also at the State and local levels. The prohibition was set forth in an HHS Grants Administration Manual Circular issued May 25, 1979, which stated that the costs of lobbying expenditures are normally unallowable because they do not benefit the work performed under the grant.

HHS' regulations require title X grant recipients to follow applicable OMB guidance in the administration of their grants. According to the OMB circular setting forth cost principles that must be followed by State and local government grant recipients, program funds can be used to pay dues to civic, business, technical, and professional organizations but ony if such organizations do not devote a substantial part of their activities to lobbying. However, this restriction is not included in OMB's circulars setting forth cost principles for universities and nonprofit organizations nor HHS' cost principles for hospital grant recipients—both of which simply provide that dues are an allowable program expense, without distinguishing between organizations that lobby and those that do not. As a result, nonprofit recipients do not have the same lobbying restrictions on dues as public recipients.

Most importantly, neither HHS' nor OMB's principles specifically identify activities that constitute lobbying and that are therefore unallowable as program charges.

Lobbying by title X recipients

All seven title X recipients reviewed for lobbying had incurred expenses that, in our opinion, raised questions as to adherence with Federal restrictions. Two recipients lobbied, but we could not determine from their records whether program funds were used. Most lobbying expenditures of the other five recipients did not involve program funds and were therefore not subject to Federal restrictions. However, of these five all used program funds to pay dues to organizations that lobby; and two used small amounts of program funds to lobby at the Federal and/or State level.

Dues Paid to Organizations That Lobby

Six recipients, including five who clearly used program funds, paid dues to organizations that lobby at the Federal level. The recipients' program expenditures for such dues ranged from $25 to over $27,000 during the period covered by our review, and the combined expenditures of the five recipients was about $42,000. Although the payment of dues by nonprofit organizations is an allowable program expense, the use of program funds to pay dues to organizations that lobby substantially for or against pending legislation that affects the grant program is questionable in light of current legislative prohibitions against using appropriated funds for lobbying and HHS' policy that generally prohibits program expenses for lobbying.

We discussed the payment of dues to organizations that lobby with three recipients. Officials of two recipients said dues to professional organizations should be allowable because such organizations provide many needed services. One executive director told us that he did not think the payment of dues to lobbying organizations is currently prohibited by HHS and that it should not be. However, to ensure the allowability of expenditures for dues to an organization that lobbied at the State level, he noted, in his letter transmitting payment, that his dues should be used for educational purposes. The executive director of the third recipient, rather than having a firm position, sought guidance as to whether he should stop paying dues with program funds.

Program Funds Used for Lobbying Activities

Two recipients spent program funds for lobbying at either the Federal or the State level. Lobbying at the Federal level is prohibited by Federal law and administrative policy. Lobbying at the State level generally is prohibited by administrative policy only. As shown below, the title X program expenditures associated with lobbying activities were small and, in some cases, indirect.

At the Federal level:

Two recipients spent program funds for transportation, lodging, and other expenses associated with attending conferences in Washington, DC, during which officials visited Members of Congress and/or their staff and lobbied against pending legislation to incorporate title X into a block grant. About $200 was spent for this activity.

One recipient incurred undetermined costs associated with writing the Congress to lobby against pending legislation. The costs involved salaries and expenses related to preparing and distributing the correspondence.

One recipient displayed a poster and distributed post cards at a title X clinic encouraging clients to write their congressional representatives to urge them to vote "pro choice" on pending legislation. Costs associated with this activity were too obscure to calculate. However, HHS holds that title X recipients are not to advocate abortions or even foster a favorable attitude toward abortions.

At the State level:

One recipient incurred costs for attending a conference that involved lobbying at the State level. About $113 was spent on this activity.

One recipient provided space for about 6 weeks in a title X clinic to an organization involved in lobbying at the State level and, as a result, program funds were indirectly involved.

Recipients did not agree with our observations that the costs of these activities were unallowable program expenditures because they were associated with lobbying. For example, one executive director said he thought that meeting and corresponding with Members of Congress was more an educational activity than a lobbying activity. He told us that he had not received clear guidance explaining activities which constitute lobbying. Another executive director disagreed that displaying the poster was an improper activity because (1) Federal funds were not used to print it and (2) it was more an advertisement than a lobbying effort.

HHS' efforts to clarify lobbying guidance

HHS has recognized the need to clarify guidance provided recipients on lobbying and has begun taking corrective measures. In response to inquiries about the possible misuse of Federal funds for lobbying, the Secretary of HHS asked the Assistant Secretary for Management and Budget to identify ways to reduce possible abuse. In June 1981, the Assistant Secretary suggested several steps that could be taken, including (1) making grant recipients aware of applicable restrictions, (2) increasing monitoring, and (3) identifying clearly activities considered unallowable.

In October 1981, HHS recommended that OMB review its cost principles to clearly set forth unallowable lobbying activities and to prohibit all recipients, including nonprofit organizations, from using program funds for dues to organizations that devote a substantial part of their activity to lobbying. HHS believes that lobbying restrictions should be set forth on a Government-wide basis and, therefore, guidance for nonprofit grantees should be issued through OMB. However, we were told that, if OMB does not revise its cost principles, HHS will issue restrictions on lobbying as part of its policy guidance. In late June 1982, OMB officials told us no final determination had been made on how its cost principles will be changed to reflect lobbying restrictions.

Conclusions

Clear Federal guidance is needed both to insure that title X program funds are not used for lobbying and to preclude unnecessary controversy over whether grantees are violating Federal restrictions. The move to revise and make more specific the cost principles applicable to all Federal grantees is the appropriate mechanism to achieve these ends. Until this is done, however, HHS should provide title X grantees interim guidance concerning the activities that constitute lobbying and are therefore unallowable as program expenditures.

Recommendation to the Secretary of HHS

Pending revision of Federal cost principles, we recommend that the Secretary provide interim guidance to title X recipients on activities that constitute lobbying and are unallowable as title X program expenditures.

Agency comments

HHS concurred with our recommendation. In the near future, HHS plans to issue proposed regulations defining lobbying activities that are unallowable in its programs, including title X programs. (See app. III.)

APPENDIX I

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, September 8, 1981.

Mr. GREGORY J. AHART,
Director, Human Resources Division, General Accounting Office, Washington, DC.

DEAR MR. AHART: As you know, the Title X Family Planning program has not been consolidated into a block grant as proposed by the President but has been reauthorized as a categorical program for another three years. The Committee on Labor and Human Resources and its Subcommittee on Aging, Family and Human Services are very much interested in the operation of this program and plans for extensive oversight of the program.

During the last several months, Committee staff have been discussing three areas of interest regarding the Title X program with your representatives. These areas are (1) use of Title X funds for political lobbying, (2) use of Title X funds for abortion or abortion referrals, and (3) the overall effectiveness of the program. We understand that you have done some preliminary audit work in the first two of these areas. Now that the budget reconciliation process has been completed, we have identified several specific concerns in each of these three areas.

Following are several questions of interest to use in these areas. To the extent data are available, we would like to have information on all Title X grantees. In cases where national data are not available, we would like you to select a sample of grantees or clinics, including, as appropriate, coordinating councils, health departments, and planned parenthood affiliates. We understand you have already reported on political activities of some community action agencies, a number of which are Title X grantees.

USE OF TITLE X FUNDS FOR POLITICAL ACTIVITIES

1. What Federal laws and regulations or instructions or guidance issued by Federal agencies pertain to lobbying activities by Title X grantees and clinics?

2. Is there any evidence that Planned Parenthood Federation of America, or its affiliates has either donated or sold at minimal costs mailing lists to political candidates or organizations? Is there evidence that this represents a violation of Federal laws or regulations?

3. What types of political lobbyists activities are Title X grantees or clinics carrying out, are Title X funds used, and are any of these activities prohibited by Federal laws, regulations, or instructions?

Activities in question include such actions as advertising, direct mailings, voter registration, telephone canvassing or "hotlines", or payment of dues to lobbying organizations.

4. Is there any evidence that Planned Parenthood Federation of America used Title X funds or any other federal funds for political lobbying activity during 1980 or 1981? Are dues collected from Title X funds affiliate organizations considered "Federal funds" for purposes of lobbying prohibitions? Is there any evidence that grantees are able to increase their political activities using funds "freed" by the presence of federal funds?

USE OF TITLE X FUNDS FOR ABORTIONS OR ABORTION REFERRALS

1. What activities has HHS identified as allowable or unallowable relative to section 1008 and how has HHS informed Title X recipients of these? What guidance or instructions has HHS issued to Title X grantees for abortion referrals?

2. How does HHS monitor Title X recipients for compliance with section 1008 and what enforcement actions has HHS taken relative to section 1008 during the last few years? Do HHS' monitoring actions appear adequate to detect compliance with section 1008? How many organizations receiving Title X funds perform abortions either at the same location where Title X activities are provided or at separate locations?

3. How many Title X recipients has HHS found to be using Title X funds for abortions or abortion related services, including referrals? Have you or HHS identified any Title X recipients performing menstrual extractions without performing pregnancy tests which may, in fact, be abortions?

4. In testifying before this Committee in March 1981, you indicated that one Title X grantee—Planned Parenthood of New York City—may not have been in compliance with section 1008 restrictions and that you would be referring this matter to HHS' Inspector General for further evaluation. When did you make this referral and what actions has HHS taken?

5. What steps do Title X clinics that perform abortions or make abortion referrals take to comply with section 1008? Do such organizations account for abortions and abortion referrals separately?

6. To the extent information is readily available or ascertainable—

How many clients are pregnant when they first seek services at typical Title X clinics? How many of these clients are 19 or under?

What are the marital status, age, and race of the above clients who seek or receive pregnancy counseling?

Of the Title X clinic clients who seek or receive pregnancy counseling, how many are referred for abortions?

How many clients referred for abortions have had a previous abortion? Please break down by age and marital status.

7. Is there any evidence that clinic counseling is structured or presented to favor abortions over other alternatives?

8. What internal guidance or instructions on abortion referrals have Title X grantees developed and given to their personnel?

9. What training have Title X clinic counselors received regarding problem pregnancy counseling, including abortion referral?

10. What educational materials about abortion are offered by Title X funded clinics?

11. What process typically leads to an abortion referral in Title X funded clinics?

12. Do any substantive differences exist in the proportion of clients referred for abortion or in educational materials used regarding abortion between public and private Title X grantees?

13. Are clients referred for abortion by Title X clinics offered follow-up counseling?

14. What steps have HHS and Title X grantees and clinics taken to implement section 931(b)(1) of the Omnibus Budget Reconciliation Act of 1981? This section requires Title X grantees and contractors to encourage family participation in project operations.

EFFECTIVENESS OF TITLE X PROGRAM

As you know, many claims have been made by Title X program components of the program's effectiveness in preventing unwanted pregnancy. In fact, proponents have recently stated that the Title X program saves over $2.00 for every $1.00 spent. Yet, with regard to adolescents, illegitimacy rates, abortion rates, and incidents of premarital sexual activity continue to increase dramatically. There are several ways effectiveness might be gauged. These should include encouraging involvement of parents and other family members when working with adolescents, and supporting local community standards with regard to these issues. We recognize that an in-depth evaluation of the effectiveness of the Title X program could be very costly and time-consuming. However, we would like GAO to determine how the effectiveness of the program could be evaluated, either comprehensively in one study or in phases. Proper attention should be given to the cost-benefit ratio claimed by proponents and to other outcomes of the use of Title X funds with which society must contend. After you have completed such an assessment, we would like to discuss the best approach for conducting the evaluation.

If, during the course of your work, you should need further guidance or information, please contact either Dr. Craig Peery on the Staff of the Labor and Human Resources Committee or the Staff Director of the Aging, Family and Human Services Subcommittee, Miss Cynthia Hilton. Thank you for your cooperation.

Sincerely,

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources.

JEREMIAH DENTON,
Chairman, Subcommittee on Aging, Family and Human Services.

APPENDIX II

ORGANIZATIONS REVIEWED

	Type of recipient	Scope of activities reviewed	
		Abortion related activities	Lobbying
REGION I— BOSTON, MA			
Action for Boston Community Development, Inc.	Grantee	X	
East Boston Neighborhood Health Center.	Clinic	X	
Vermont State Department of Health.	Grantee	X	
Planned Parenthood Association of Vermont, Inc.	Delegate	X	
Burlington Center.	Clinic	X	
REGION II—NEW YORK, NY			
Planned Parenthood of New York City, Inc.[1]	Grantee		
Boro Hall Center, Brooklyn[1].	Grantee		
Genesee Region Family Planning Program, Inc., Rochester, NY.	Grantee		X
Planned Parenthood of Rochester and Monroe County, Inc.	Delegate		X
New Jersey Family Planning League, Inc., Mountainside, NJ.	Grantee		X
Planned Parenthood-Essex County, Newark, NJ.	Delegate		X
REGION III— PHILADELPHIA, PA			
Planned Parenthood Association of Metropolitan Washington, DC, Inc.	Grantee	X	X
Parklands Clinic, Washington, DC.	Clinic	X	
State of Maryland Department of Health and Mental hygiene.	Grantee	X	

ORGANIZATIONS REVIEWED—Continued

	Type of recipient	Scope of activities reviewed	
		Abortion related activities	Lobbying
Baltimore City Health Department Western Center for Maternal and Infant Care, Baltimore, MD.	Clinic	X	
REGION IV—ATLANTA, GA			
Kentucky Department for Human Resources.	Grantee	X	
Louisville Area Family Planning Council Inc.	Delegate	X	
Department of Public Health, Louisville and Jefferson County.	Clinic	X	
University of Louisville, School of Medicine, Department of Obstetrics and Gynecology.	Clinic	X	
Planned Parenthood of Louisville, Inc.	Clinic	X	
REGION V—CHICAGO, IL			
Ohio Department of Health.	Grantee	X	
Tuscorawas County General Health District.	Clinic	X	
Planned Parenthood of Southeastern Ohio, Inc.	Delegate	X	
Athens, OH, Clinic.	Clinic	X	
Planned Parenthod Association of Cincinnati, OH.[2]	Clinic	X	
Planned Parenthood of Central Ohio, Inc., Columbus, OH.[2]	Grantee	X	
REGION VI—DALLAS, TX			
Greater Dallas Family Planning Project.	Grantee	X	
Maple Plaza Clinic	Clinic	X	
Planned Parenthood Center of San Antonio, Inc.	Grantee	X	
Downtown Clinic	Clinic	X	
REGION IX—SAN FRANCISCO, CA			
Los Angeles Regional Family Planning Council, Inc.	Grantee	X	X
Los Angeles County Department of Health Services.	Delegate	X	
Hollywood-Wilshire Health Center.	Clinic	X	
Planned Parenthood World Population, Los Angeles.[2]	Delegate		
Sherman Oaks Clinic.[2]	Clinic	X	
Orange County Health Department Human Services Agency, Santa Ana, CA.	Grantee	X	
East Region Clinic	Clinic	X	
Planned Parenthood Association of Orange County.	Delegate	X	
Santa Ana Clinic	Clinic	X	
Planned Parenthood of Santa Barbara, Inc.	Grantee		X

[1] Limited review of abortion activities initiated based on previous audit work.

[2] Limited Review of Abortion activities as a followup to an audit by HHS' Inspector General.

APPENDIX III

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC, September 13, 1982.

Mr. GREGORY J. AHART,
Director, Human Resources Division, General Accounting Office, Washington, DC.

DEAR MR. AHART: The Secretary asked that I respond to your request for our comments on your draft of a proposed report "Restrictions on Abortion and Lobbying Activities in Family Planning Programs Need Clarification." The enclosed comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,

BRIAN MITCHELL,
(For Richard P. Kusserow,
Inspector General).

COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE GENERAL ACCOUNTING OFFICES'S DRAFT REPORT "RESTRICTIONS ON ABORTION AND LOBBYING ACTIVITIES IN FAMILY PLANNING PROGRAMS NEED CLARIFICATION," DATED AUGUST 13, 1982

GAO RECOMMENDATION

We recommend that the Secretary establish clear operational guidance by incorporating into the title X program regulations and guidelines, HHS' position on the scope of the restriction in section 1008.

In doing so, we recommend that the Secretary consider the grantee practices discussed in this report and in the Inspector General's reports with a view toward providing as explicit guidance as possible on the activities that are and are not allowed.

DEPARTMENT COMMENT

The Secretary will direct the Assistant Secretary for Health to include in title X program guidelines an explanation of the Department's position on implementation of section 1008.

GAO RECOMMENDATION

Pending revision of Federal cost principles, we recommend that the Secretary provide interim guidance to title X recipients on activities that constitute lobbying and are unallowable as title X program expenditures.

DEPARTMENT COMMENT

In the near future, HHS expects to issue a notice of proposed rulemaking to define lobbying activities that are unallowable in various HHS programs, including title X. These regulations will provide guidance to title X recipients.

FOOTNOTES

[1] Information was not available on the number of family planning clinics that provided abortions at separate locations.

[2] Because questions were raised during a previous GAO review as to whether certain practices at this clinic were in conformity with HHS' interpretation of section 1008, GAO sent a letter of inquiry to HHS. Using information obtained during an audit by the Inspector General, HHS' Office of General Counsel reviewed the concerns raised in our letter and concluded no violations of section 1008 were indicated at the clinic.

[3] Conference Report, H. Rep. No. 91-1667, December 3, 1970, pages 8 and 9.

[4] 116 Cong. Rec. 37375 (1970).

[5] Memorandum GC (Mangel) to DASPA (Hellman), "Abortions as a Method of Family Planning—Section 1008 of the Public Health Service Act," April 20, 1971, DF#38B.

[6] 42 C.F.R. Part 59.

[7] Nondirective counseling is the provision of information on all available options without promoting, advocating, or encouraging one option over another.

[8] None of the clinics reviewed provided or referred any client for menstrual extraction procedures.

[9] Initially this antilobbying appropriation restriction was contained in the Independent Offices Appropriation Act; however, in recent years, it has been included in the annual Treasury, Postal Services, and General Government Appropriation Act.

[10] This restriction was not applicable for title X recipients until 1980 because title X appropriations were not included in HHS' fiscal year 1979 appropriations, but rather in a separate Continuing Resolution.

[11] In some situations, expenses associated with lobbying at the State and local levels would be allowable program charges, such as when grantees' programs include an advocacy function.

[12] OMB Circular A-87.

[13] OMB Circulars A-21 and A-122.

[14] HHS issues cost principles for hospitals, not OMB. See 45 CFR Part 74.

Mr. KENNEDY. In September 1982, GAO found no evidence that title X funds have been used for abortions or to advise clients to have abortions.

And that is what we are talking about here in this particular amendment—not that we are going to be funding, not that they are going to be recommending but that information, the totality of which has been accepted by the obstetricians and the pediatricians as part of their whole ethical mandate of treating pregnant women, will be realized in these settings.

Later in 1983, the former Secretary of HEW, Margaret Heckler, testified before the Health Committee and made exactly the same conclusions.

I would like to say that as a result of the GAO report and the questions raised therein, there have been 32 inspector general audits, to either confirm or deny the basic premise of the GAO. In the inspector general audits we have learned in general the prohibition against abortion was well known at the level of family planning clinics, and it was being honored.

So that has been the record in spite of those that say if you take the Chafee amendment you are really starting down that road to effectively funding all of those that come on into these family planning clinics and, of course, that is not the case.

The allegations and charges were made way back at the development of the family planning program. They have been made in the early eighties. They have been made again quite frequently during the debate on family planning last year, and that just does not happen to be the case. There is no authoritative information that would do so.

So, Mr. President, what effectively is being attempted here is to go back to exactly what the standards of the American College of Obstetricians and Gynecologists state in their ethical standards, the kinds of information, nondirectional information, that ought to be available in these clinics, and it is all stated here in the ACOG standards at page 62 in the event of unwarranted pregnancy, the physician should counsel the patient about her options: continuing the pregnancy to term and keeping the infant; continuing the pregnancy to term and offering infant

care or legal adoption; or termination of pregnancy.

And the fact is that what this whole public policy issue is is whether we are going to go back to what are the ethical standards which have been accepted by the previous administration had been altered and changed in 1988 and been ruled on by the Supreme Court, are we going back to what has been stated in the regulations where the stated standards which are the ethical standards that have been adopted by the pediatricians and the obstetricians in terms of information, nondirectional information.

I believe that anything that does not move us in that direction misses the mark. And the amendment of my good friend and colleague from Minnesota effectively fails to move us back to that position. And as valued as it is in terms of trying to give additional attention to prenatal care, which I think many of us would support—not here—this is a different public policy issue and question and I would hope that the amendment would not be accepted.

The PRESIDING OFFICER. There are 17 minutes and 36 seconds remaining to the Senator.

Who yields time?

Mr. KENNEDY. I would be glad to yield 5 minutes to the junior Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, first of all, let me join the distinguished Senators from Massachusetts and Rhode Island in their comments about the senior Senator from Minnesota. So many times I find myself in agreement with the senior Senator from Minnesota. I have such respect for all he has done in the health care field and other fields as well. But I do rise to speak in opposition to the Durenberger amendment.

I believe this amendment essentially codifies the gag rule. I do not think the amendment is compromise. I think it is codification. You can call the amendment by another name and you can use different language in the drafting, but when you get right down to the effect of this amendment, what it is is a gag rule.

Under this amendment, and I think we should be clear about this, medical professionals at title X clinics are prohibited from directly counseling pregnant women as to what their medical and legal options are and this amendment, therefore, raises all of the questions that I spoke about when I spoke earlier this morning.

The first amendment issues—we are still telling a doctor he or she cannot provide a patient with a full range of advice and information. It also raises all the same problems about two-tier medicine.

Women who have the income and see their private doctors can go in and receive full information. Under this amendment, a woman who goes into a title X clinic cannot receive that information at that clinic. Instead, what happens with this amendment is when a pregnant woman comes to a title X clinic she is given a piece of paper, a list of providers for referral, and she is shown to the door.

Let me be clear about this. A young woman comes to a title X clinic; under this amendment she is shown to a door. A poor woman, vulnerable, comes to a title X clinic under this amendment; she is shown to a door. A young woman comes to a title X clinic, in crisis, under stress, under this amendment; she is shown to a door.

Young women, poor women, and most vulnerable women, in crisis, under stress, come to a title X clinic and under this amendment they are shown to the door.

For all of these reasons I am sad to say this amendment is, again, in effect, a gag rule. It is unacceptable and I hope my colleagues will oppose it.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor and returns his time.

Who yields time?

The distinguished senior Senator from Minnesota.

Mr. DURENBERGER. Mr. President, how much time do I have?

The PRESIDING OFFICER. The senior Senator from Minnesota has 26 minutes and 26 seconds.

Mr. DURENBERGER. Mr. President, I rise first to thank my colleagues who oppose my amendment for their valuable opinion of some of the other things I do around here in the healthcare area. I particularly single out my colleague from Rhode Island, with whom I have worked so closely on the Finance Committee for the last 13 years, doing maternal and child health and doing an awful lot of these issues. He certainly is a leader in community health work, in his Medicare, or "Americare" program. And our colleague, chairman of the Labor Committee, does not have to take second place to anybody in this Chamber for his commitment to health policy and public health.

I also appreciate the very generous comments of my colleague from Minnesota.

But I must respond to a couple of the characterizations. I guess the best place to start is with the argument that this is not the middle ground and that this amendment merely codifies the administration position.

I am tempted to ask my colleagues whether or not they have read the administration regulations and the Rust decision as well, and suggest to them that maybe the same thing occurred in their lives as occurred in mine. That is, I did not pay all that much attention to the administration regulations until I got the Rust decision.

I think the reality just may be that the Bush administration rules were closer to the middle ground than any of my colleagues may give them credit for being.

In the implementation of the 1981 guidelines in some title X clinics, counseling resulted in referrals to abortion clinics. These were not direct referrals. These were not people saying "I want you to go from here to XYZ clinic." But the nature of the advice that is provided people in a clinic where pregnancy prevention is the professional charge may or may not be the kind of independent counseling you want on prenatal health care.

Again, under the 1981 guidelines, just to confirm what was said about the changes, under the 1981 guidelines there seems to me no question in various studies that came out in the middle 1980's that a lot of people were going from the title X clinics to have abortions performed.

Was it because they were not being given a list, and shown the door? No. They were being given a list and they were being shown the door. And also a long list of services in the community, a long list of telephone numbers, some advice on how to contact these people, what kind of folks are involved in prenatal counseling. And, at least in the case of Planned Parenthood of Minnesota, a substantial part of the page on pregnancy termination.

If you are a woman in crisis, if you are in panic—one doctor I spoke to in Minnesota likened this to discovering you have cancer. He may well be right. Yet, if there were a magic cure for cancers, and it was called pregnancy termination—would some women not take it? And how do any of us know that the full range of options, and discussions of all of the pluses and all of the minuses and all of the goods and all of the not-so-goods that we now know about—either in carrying the child to term or in termination—were carried out at a clinic whose professionals—and they are all good people—are in the business of pregnancy prevention, not pregnancy counseling?

So, I do not know. I find it hard to believe that the Bush administration took a huge right turn on this particular issue.

I suspect that the Rust decision has characterized a lot of our thinking on this particular issue. And I told my colleagues I do not like the Rust decision. I can feel it from every doctor and health care professional I have met since that decision: This is the first step in the Government telling you what you can do. But I do not think that comes from the guidelines—excuse me—that does not come from the proposed regulations. They have been characterized as a gag. They are not.

I must say also they are not very acceptable to many people in the anti-abortion movement. When I was in

Minnesota, on several occasions I sat with some of my friends, attorneys and others, people who have been around a long time, and I said what do you suppose should happen when someone goes into a title X clinic, finds out they are pregnant, and they are referred to—in the case of good old St. Paul, MN—they are referred to Meadowbrook Women's Clinic, 6490 Excelsior Boulevard, St. Louis Park, MN? Everybody knows they do abortions, the Meadowbrook Clinic. They also do prenatal counseling. They do both.

Well my prolife, antiabortion friends said: Well, you cannot send them there.

I said what are you going to do? Are you going to make these nurse practictioners and social workers and people in a title X clinic responsible for going around this community, going to Face To Face in St. Paul, MN, on East 7th Street; to Health Start at the St. Paul Ramsey Medical Center, to the MOD medical clinic, to the North End Health Center, and find out exactly what is going on in all of these places? In a specific case? No, you are not. Every person's case is different.

I suggest the reason the administration came to the middle ground on this issue is because, under the previous guidelines, women were not getting all of the options in some title X clinics.

My colleague from Rhode Island says we are taking the counseling out of the title X clinic, and he is right. That is the middle ground. That is trying to find the solution to the problem. If they get counseling in a title X clinic, and one of those counseling says here is how you can get your pregnancy termination, they probably are not going to go see anybody else in the communitty, even though you have 4 or 5 pages of other people in this community you can see. Someone has suggested, in the course of the argument, that by putting these people on the streets, it is advice, the same kind of advice that hopefully Planned Parenthood and other title X clinics have been giving people, that takes it from one health care service in the community to another.

We are talking about hurdles; hurdles to get over in the Medicaid Program, hurdles to get over in the community health program. That is not an argument, I say to my colleague. That problem exists for poor people in this country, regardless, and I credit my colleague from Rhode Island for trying to do something about that. But not in family planning.

So, Mr. President, hard as it may be to prove to anybody on the floor of the Senate, it may well be that those regulations—not the Rust decision, but those regulations—were an effort to find a middle ground; were an honest effort to find some way to get the abortion issue out of family planning, because if we do not do that, we have big problems in this country.

I know that it is a hard sell. I have seen all the ads. I cannot imagine the amount of money going into newspapers in this country that ought to be going into poor women and helping them, giving them the advice they need, giving them the services they need.

I wish it were different. I wish this issue were not being debated here. They do not want to spend the money on these ads. I wish they did not have to. I wish this was not that kind of an issue, but we cannot wish it away. We can always try, I must say, as I have done.

I want to thank all of the people in my State of Minnesota, the hard-working professionals who are in title X clinics, who probably do not agree with my position on this, who work day and night to help poor, young women in my community, and I want to thank them for the part they have played in my education.

I must say, in response to the comments made by my colleagues, this is the middle ground. This is the middle ground. We are not getting anywhere financing title X under the old regulations. Maybe these will get us there. Maybe this amendment, which pulls those old regulations to the middle—it is not an easy amendment for people in the prolife or antiabortion movement to support because they know that a lot of these prenatal counseling services are also going to be providing abortion.

So it is not easy for a lot of people to support an amendment like this. But I must say, it is an honest effort to find more services, more resources for more services for more women in America.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The senior Senator from Minnesota yields the floor. He has 16 minutes 35 seconds remaining. The opponents have 15 minutes 3 seconds.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think we are prepared to move to a resolution of this issue, if the Senator from Minnesota is prepared.

The PRESIDING OFFICER. Do all sides yield back their time?

Mr. DURENBERGER. Mr. President, I am not sure that I can or should at this particular point in time. I have some information that my colleague, the ranking member of the committee, wanted to speak on the issue.

Mr. KENNEDY. Why do we not suggest the absence of a quorum, the time to be charged to both sides?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The time will be charged equally to both sides.

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.

Mr. DURENBERGER. Mr. President, I yield 5 minutes of my time to my colleague from Mississippi, the senior Senator, Senator COCHRAN.

The PRESIDING OFFICER. The senior Senator from Mississippi is recognized for 5 minutes.

Mr. COCHRAN. I thank my friend from Minnesota for yielding me the time.

Mr. President, I am rising to advise the Senate that once the Durenberger amendment is disposed of, assuming that it is not agreed to by the Senate, I will offer an amendment that seeks to address in a more narrow way the issue of the gag rule, so-called, that was an issue in the case of Rust versus Sullivan before the Supreme Court.

I might say, too, that I intend to vote for the Durenberger amendment because I think it is a step toward directing the attention of the Senate to the specific issues that were brought to the attention of the Court in that appeal.

Just to refresh the memory of the Senate about how that came to be the subject of a markup in the Labor Committee on June 6 of this year, on May 23, the Supreme Court handed down its decision in the case of Rust versus Sullivan. It was an appeal from the Second Circuit Court of Appeals, and the Supreme Court attempted to resolve the dispute that had arisen between two circuits, two circuits having ruled that the administration's regulations implementing the title X law, as passed in 1970, were unconstitutional because they deprived those seeking counsel and those providing counsel of certain constitutional rights under the first and fifth amendments.

So the committee, having had a bill before it on the subject of title X and requiring abortion counseling to be made available by health providers under title X in grantee clinics, called up that bill in a markup session, in executive session, on June 6. We quickly, without any preparation in terms of hearings on trying to gauge the effect of the Supreme Court's decision, were called upon to vote out, report out favorably or not, S. 323, a bill that had previously been introduced by the distinguished Senator from Rhode Island.

So after some discussion, the bill was reported out. I joined four other Senators in voting against reporting out the bill that day because I was concerned that instead of reversing a gag rule or doing something about a gag rule that had been interpreted as having been sanctioned by the U.S. Supreme Court, we were being asked to approve a bill that was a gag rule in reverse.

So I am very disturbed about the fact that we now are having to vote on, not the bill that was reported from the committee, but a greatly lengthened bill, a much more complicated bill that

seeks to write additional regulations under title X in the form of law, statutory law.

So I hope that the Senate will look at the Durenberger amendment and recognize that it is an effort to codify what we may see approved by the Senate as portions of the previous regulations that were at issue in Rust versus Sullivan.

But insofar as the gag rule is concerned, Mr. President, I intend to offer an amendment that seeks to meet that issue head on, frankly, and to say, in effect, that the Government does not have any business imposing itself into conversations between health professionals and those seeking counsel at health clinics, even though they get their funds from title X.

So the Senate will be on notice about the amendment that I will seek to offer after the Durenberger amendment is considered and disposed of, I ask unanimous consent that a copy of the sheet describing that amendment and the content of the amendment be printed in the RECORD at this point.

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

THE COCHRAN AMENDMENT KEEPS THE GOVERNMENT OUT OF A HEALTH PROFESSIONAL'S CONVERSATION WITH A PATIENT

The amendment is a clear and uncomplicated statement of policy.

It does not limit speech—it allows a health professional to provide information, upon request, on legal medical options available to the patient.

It does not mandate speech—it does not require that certain statements be made in a conversation between a health professional and a patient.

It makes clear the Congressional intent that federal funds are not to be used to encourage or promote abortion.

Cochran amendment:

"Notwithstanding any other provision of law, no health professional in any project receiving funds under Title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding pregnancy.

"Nothing in this or any other act shall be construed to allow projects receiving funds from the Federal Government to encourage or promote abortion."

Mr. COCHRAN. I thank the Chair. I thank my friend from Minnesota.

The PRESIDING OFFICER. The Senator from Mississippi yields the floor. There remain 10 minutes, 32 seconds on the part of the proponents, 14 minutes, 6 seconds on the part of opponents.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I intend to conclude with just a minute or two of remarks, and then I am informed that no one else intends to speak on the amendment.

There are probably two points that I might try to clarify, one being that as soon as someone tests positive for pregnancy in a title X clinic, they are shown a door, shown a list, whatever the case may be, and I have to say that was my first impression of the Rust decision, too, that you got a list and then if anybody breathed the word abortion, you got a magic sentence. That was it, this cold fish kind of deal. I think that scared a lot of people. That turns out not to be true.

If the woman is found to be pregnant in a title X funded clinic, there will be a list, the list that I have shown my colleagues here today. Every good title X clinic in America—and I think they probably are, all 4,000 of them—maintains those kinds of lists that I have shared with my colleagues here today. And the social worker will talk through with the person involved what their options may be and discuss a variety of these options.

The word "abortion" is not an anathema word in a title X clinic, but from the time this act was passed in 1970, abortion has not been considered a method of family planning. Advice or referral on abortion is inappropriate in a title X clinic. In fact, if this amendment were passed and regulations amended to conform to this amendment, it would not be permitted. But other advice that a woman needs in that situation on discovery of the fact that she is pregnant and help in getting them to one of these community facilities is most appropriate, and none of these wonderful nurse practitioners, nurse social workers—80 percent of the people that staff these clinics—would be doing their jobs if they were not providing that kind of information to these new moms before they are referring them to the prenatal clinic.

Mr. President, it has been erroneously charged also that barring title X personnel from providing abortion counseling discriminates against poor women. The amendment that I am proposing would guarantee that the poor woman receives the counseling that she needs from a trained medical professional, from a medical professional in many cases trained in obstetrics. Who would counsel her in a title X facility under a Chafee amendment? Would she receive counseling from obstetricians? Would she receive counseling from a professional trained in postconception medical problems? Not likely. Not likely.

So I believe that if you want to ensure a poor pregnant woman receives the very best counseling and medical care, you want that person referred in the case of our community and our capital community, St. Paul, MN, referred to this wide variety of experts. I have talked about some of them: the St. Paul Ramsey Medical Center, Lutheran Social Service, Meadowbrook Women's Clinic, Midwest Health Center, Seton Center, West Side Health Center, MOD Clinic, North End Health Center, Health Start, Face to Face, Planned Parenthood-Ford Parkway. That is where you want people to get their care.

Mr. President, I am pleased at this point to yield 3 minutes to my colleague from Indiana.

The PRESIDING OFFICER. The Senator from Minnesota has 6 minutes. He yields 3 to the Senator from Indiana.

Mr. COATS. I thank my friend for yielding.

As I understand it in discussions with the Senator from Minnesota, he has what I think all of us would concede is a very legitimate concern about pregnant women entering a title X facility and not receiving help or counseling that they may need relative to how best to take care of the child that they are carrying.

The point has been made, and I think over and over and made well by the Senator from Utah and the Senator from Minnesota, the Senator from Mississippi, and others, that the title X Program was designed and established to prevent unwanted pregnancies from occurring, that through counseling, dispensing contraceptive devices, and a number of other methods for young women who did not want children but who were otherwise engaged in sexual activity, we would encourage and give them help in preventing unwanted pregnancies.

The question arose, if a pregnancy did occur, then what was the responsibility of the title X agency? Because the question of terminating a pregnancy after it occurred was not considered by many of us who hold to the position that life is valuable and ought to be protected and ought to have the right to exist and to live, terminating that pregnancy was not what Congress initially intended, nor what the taxpayers intended when they said go ahead and use our money for preventing pregnancy. Because occasions do arise when pregnant women show up at title X clinics or counseling clinics, the Senator from Minnesota is saying those people need to have available to them the counseling necessary to give them a balanced picture of what options they have.

The concern of the Senator from Minnesota is mine and many others here, that the balanced picture will not be given, that the advice and counseling will simply be biased toward abortion. What he is saying is that it is important they be given the counsel and advice, it is important that these women know that there are a number of options available to them, that they be given advice and counsel on how to take care of that baby in its prenatal state.

The PRESIDING OFFICER. I regret to advise the Senator from Indiana his 3 minutes are up.

Mr. COATS. One more minute.

Mr. DURENBERGER. I will be pleased to yield 2 minutes to my colleagues from Indiana.

The PRESIDING OFFICER. The Senator then has 1 minute remaining.

Mr. COATS. One minute.

Mr. DURENGERGER. Mr. President, I would prefer yielding 2 minutes to the Senator from Indiana.

Mr. COATS. So Senator DURENBERGER is simply saying we have a real concern that these women receive help for their baby, and we are willing to provide them with a list of facilities or information to which we can refer them. But what we are concerned about is that they will be presented with only one option or they will be induced or biased toward only one option, that is, terminating the pregnancy.

So I think the amendment is eminently reasonable. I think it explains what it is title X is all about, what it is various administrations have tried to do to ensure that the initial purpose of Congress and the wishes of Congress as expressed in many, many different forms, many, many different times and that the wishes of the vast majority of taxpayers is carried out in a responsible, reasonable way which reaches out to women who find themselves pregnant with an unwanted pregnancy but need to know what options they have.

So I commend the Senator for his amendment and trust the Senate will support it.

I yield back the remainder of the time yielded to me.

The PRESIDING OFFICER. The Senator from Minnesota has 1 minute 25 seconds.

Mr. DURENBERGER. Mr. President, I express my apprection to the Senators from Indiana and Mississippi for their kind support. I am prepared to yield back my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, there has been a good deal of explanation of what is in various amendments and what is taking place in the various clinics. The fact is the Chafee substitute goes back to what the condition in those clinics was from 1981 to 1988.

There is no evidence that has been presented here that those guidelines which were nondirected in nature that complied with the ethical standards of the pediatricians and the obstetricians were abused in any way. There is no evidence. There is opinion that they might have been. But when we come right back to asking GAO or the IG to do a study, there is no evidence.

Mr. President, this amendment of the Senator from Minnesota is preferring some aspects of those guidelines over others. If we are interested in returning to the 1981–88 guidelines, the vote should be no with regard to this amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I yield myself another minute for the purpose of asking for a unanimous-consent request. I ask unanimous consent that following disposition of the Durenberger amendment, Senator COCHRAN be recognized to offer an amendment on which there be 2 hours equally divided in the usual form and no second degrees be in order to the Cochran amendment.

I further ask unanimous consent that, following the conclusion or yielding back of the time, the Senate proceed to the vote on or in relation to the Cochran amendment.

I further ask unanimous consent that following the disposition of the Cochran amendment, Senator COATS be recognized to offer an amendment regarding parental notification.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, on the second part of that, I am not in the position to agree. I am representing this side now.

Mr. COCHRAN. Mr. President, if the Senator will yield, we have checked on this side of the aisle and there is no objection to the unanimous-consent request.

Mr. CHAFEE. On the Coats amendment?

Mr. COCHRAN. On this unanimous-consent request that was cited. There is no objection.

Mr. CHAFEE. Could you read the last part.

Mr. KENNEDY. Following the disposition of the Cochran amendment, Senator COATS be recognized to offer an amendment regarding parental notification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I am glad to yield back the remainder of the time.

Mr. DURENBERGER. I yield back the remainder of the time, and 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 question is on agreeing to the amendment of the Senator from Minnesota, No. 754. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 35, nays 64, as follows:

YEAS—35

Boren	Exon	Mack
Breaux	Ford	McCain
Burns	Garn	McConnell
Coats	Gramm	Murkowski
Cochran	Grassley	Nickles
Craig	Hatch	Pressler
D'Amato	Heflin	Reid
Danforth	Helms	Smith
DeConcini	Johnston	Symms
Dole	Kasten	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	

NAYS—64

Adams	Gore	Packwood
Akaka	Gorton	Pell
Baucus	Graham	Riegle
Bentsen	Harkin	Robb
Biden	Hatfield	Rockefeller
Bingaman	Hollings	Roth
Bond	Inouye	Rudman
Bradley	Jeffords	Sanford
Brown	Kassebaum	Sarbanes
Bryan	Kennedy	Sasser
Bumpers	Kerrey	Seymour
Burdick	Kerry	Shelby
Byrd	Kohl	Simon
Chafee	Lautenberg	Simpson
Cohen	Leahy	Specter
Conrad	Levin	Stevens
Cranston	Lieberman	Warner
Daschle	Metzenbaum	Wellstone
Dixon	Mikulski	Wirth
Dodd	Mitchell	Wofford
Fowler	Moynihan	
Glenn	Nunn	

NOT VOTING—1

Pryor

So, the amendment (No. 754) was rejected.

Mr. CHAFEE. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi may proceed.

Mr. COCHRAN. Madam President, before proceeding to send my amendment to the desk, I ask unanimous consent to be permitted to yield to the distinguished Senator from Pennsylvania and ask that he may be permitted to speak out of order for such time as he may consume.

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

The Senator from Pennsylvania may proceed.

Mr. SPECTER. I thank my distinguished colleague from Mississippi.

FRANK RIZZO

Mr. SPECTER. Madam President, I have sought leave to speak out of turn to inform my colleagues of the untimely death of former Mayor Frank Rizzo of the city of Philadelphia. Earlier today, this afternoon, former Mayor Rizzo suffered a massive heart attack and regretfully passed away.

It is a moment of sadness for the city of Philadelphia, for our State, really for our country, and for me personally. Former Mayor Rizzo was a good friend of mine, with our association dating

back to the late 1950's when he was a police captain in Center City Philadelphia and I was assistant district attorney. In those days he was known as the person who can. He was a dominate personality, a very colorful personality, very much dedicated to public service. He rose through the ranks of the Philadelphia Police Department, having very little formal education, leaving high school in the 11th grade. He rose to the position of police commissioner of Philadelphia where he was an outstanding, an outstanding law enforcement officer. For many years I worked with him as district attorney while he was police commissioner and when the major cities of the United States had very dark and troubled days, in the summers of 1967, 1968, 1969, when Newark, Pittsburgh, Detroit, and other major cities had enormous problems. The city of Philadelphia was relatively tranquil.

He then took on the duties of mayor of Philadelphia, elected in 1971 and served two terms. He was a unique political personality, shifting parties, which is not too common in our society—Ronald Reagan did it; John Connally did it; I did it; others have done it—and then ran as a Republican for the office of mayor in 1987, and again in the primary in 1991, when he defeated the organization in a very, very close primary vote, and was now a candidate for mayor for the election this year.

I saw him most recently on Friday night, when there was an antidrug march that went through Philadelphia, the corner of 52d and Spruce. He and I and my wife, Councilwoman Joan Specter, and others marched against drugs.

His passing is untimely. I send my regrets and my sympathy to his family. I know my colleagues will join in that. But he was really an outstanding public servant, and I thought that these comments ought to be made on the floor of the Senate to extend my voice of recognition of his really dedicated work for the city of Philadelphia, which he dedicated his life to, the city which he loved so dearly.

Again, I thank my colleague from Mississippi, and I yield the floor.

TITLE X PREGNANCY COUNSELING ACT OF 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 755 TO AMENDMENT NO. 753

(Purpose: To clarify that no health professional is prohibited from providing information concerning any legal option regarding pregnancy)

Mr. COCHRAN. Madam President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 755 to amendment No. 753.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. CLARIFICATION REGARDING THE PROVISION OF INFORMATION CONCERNING PREGNANCY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health professional providing services in any project receiving assistance under title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding an unintended pregnancy.

(b) CONSTRUCTION.—Nothing in this or any other Act shall be construed to permit projects receiving assistance from the Federal Government to encourage or promote abortion as a method of family planning.

Mr. COCHRAN. Madam President, this amendment seeks to address the issue of the gag rule head on, and to say clearly and unequivocally that the Government has no business interfering in a counseling session between a health professional and the patient.

This amendment does not limit speech. It allows a health professional to provide information upon request on legal medical options available to the patient. It does not mandate speech. It does not require that certain statements be made in a conversation between a health professional and a patient. It does make clear congressional intent that Federal funds are not to be used to encourage or promote abortion. The specific language of the amendment is very short, two paragraphs:

Notwithstanding any other provision of law, no health professional providing services in any project receiving assistance under title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding an unintended pregnancy.

Nothing in this or any other act shall be construed to permit projects receiving assistance from the Federal Government to encourage or promote abortion as a method of family planning.

And that is it. That is the amendment.

The reason I think it is appropriate to approve this amendment as a substitute for the bill as it would be amended by the Senator from Rhode Island is that the amendment before the Senate, of the Senator from Rhode Island, seeks to rewrite the regulations. It goes beyond dealing with the issue of the so-called gag rule that many say has been sanctioned by the U.S. Supreme Court in its decision of Rust versus Sullivan.

When we met as a committee to look at the bill, S. 323, it was one page long. It was very short. It was a one-sentence effort, in effect, to deal with what had long been a concern of many of the proabortion or abortion activists or abortion rights groups. Not only did it try to deal with the regulations that had been the subject of some controversy in implementing title X in 1988, but it specifically mandated that counselors would provide information to women seeking information at title X clinics on three subjects. It requires those three subjects to be discussed: Prenatal care and delivery; infant care, foster care, or adoption services; and pregnancy termination.

Well, I made the mistake, as we were in the markup on June 6, of reading the bill. I was there to vote for the bill, to send a clear signal that Congress did not mean to impose a gag on all health professionals who were provided information and counseling services in title X family planning clinics. That was my intent before I got to the meeting, because I was seriously concerned that the regulation writers had gone too far, if that was the true result of their action.

Two courts of appeal circuits have ruled that the regulations were an unlawful, unconstitutional infringement of freedom of speech. The second circuit, on the other hand, decided the regulations did not abridge the freedom of speech or the equal protection of the law clause of the Constitution, and further, that it was within the power of the administration, under the language of title X of the Public Health Service Act of 1970, to prescribe the use of the funds in a limited fashion, as they had done.

For instance, if you are going to use family planning clinic funds to do something other than help provide counseling on how to avoid unwanted pregnancies and related issues, then Congress has the power to prohibit that additional and extra statutory use of the funds, and the administration has a right and a power to restrict the use of the funds by regulation. And that is what the 1988 regulations proposed to do.

So I looked at the law and said, Wait a minute. We are not dealing with removing the gag here; we are putting the gag rule in reverse. We are requiring by law, if we report this out favorably, health care counselors in title X clinics to say certain things, to provide specific information, whether they have moral convictions against providing that kind of information or not. Specifically, they must provide abortion counseling, by law, as required by this law.

So I expressed that concern, and some of the members of the committee seemed impressed with the concerns I had, and asked—I think it was the distinguished Senator from Illinois [Mr.

SIMON] who asked me at the time, if we made it "may" provide these counseling services instead of "shall," would the Senator be able to vote for the bill.

I said something like, I would be hard pressed to find a reason not to vote for it if we changed that. But I was convinced that this bill would mandate by law health professionals to give certain information to patients in clinics, whether it was against their consciences, religious convictions, or professional theories or views, or otherwise, and I thought that was inappropriate. So I voted against reporting out the bill in that form.

And I was convinced the committee was going to make changes to make it acceptable. But do you know what happened? Instead of changing "shall" to "may," the distinguished Senator from Rhode Island has enlarged a one-sentence bill to a four- or five-page bill that is now before the Senate as an amendment to S. 323.

I strongly urge the Senate to adopt the amendment that I have just offered as an alternative, and here are some of the reasons. Not only does this carry forward the mandate that abortion counseling be provided, it goes further, to codify in statute regulation-type language to prohibit the termination of grantee's funds if the administration decided that it was abusing its authority and providing an unauthorized counseling service related to abortion or was providing abortion services referral inconsistent with Federal regulations.

My amendment prohibits the denial of funds to a potential grantee if that is the sole reason for the denial. And it imposes upon the Government the burden of proving motive for such denials.

I hope that Senate hears that. We have heard some discussions of the civil rights bill pending before the Congress and how it imposes new burdens on employers to prove that they have not been discriminating against an employee if that employee alleges discrimination. One of the objections to the bill, is that it puts the burden of negative proof on the employer. The employer is put in a position, under some interpretations of that bill, as having to prove that he is not discriminating, and, if he cannot offer proof, then the plaintiff wins.

Plaintiff does not have to prove anything. And that is what we are seeing extended to this amendment, Madam President, there is a requirement that if one alleges that a grantee is ineligible for funds under title X because of an infringement of a regulation relating to abortion services or abortion counseling, it is the Government which must prove to the contrary.

So, if I am a grantee potentially applying for funds under title X and have had a history of providing abortion services and the Government denies me funds, I am going to file suit. I am going to allege that the Government has denied me title X funds for a family planning clinic because of my past history of providing abortion services. The Government may say, no; I am not providing funds under this application because I do not like your looks. That will not do. The applicant will prevail in that case, as I read this amendment, and require the Government to make those funds available. And any grantee currently in business now under title X is going to stay in business in perpetuity by alleging that the denial of his continuation would be because of some infringement of a regulation relating to abortion counseling or abortion services.

This is an inappropriate inclusion in this amendment. We are supposed to be dealing with the issue of freedom of speech and whether health professionals can engage freely in a discussion of legal options with users of family clinics who may come to a physician or health care provider and say, what do I do, I am pregnant?

In my view, Madam President, we ought clearly to say that, as a matter of policy, that health care professional is free to discuss the abortion option. Since it is a legal option, that professional is free to discuss the medical ramifications of carrying that child to term, other options that may be available, such as adoption, prenatal care that may be indicated because of the medical condition of the person seeking counseling, a wide range of medical information that is very important to the life of the mother, the life of the prospective child, and generally discharges the responsibility of that health care professional under his or her oath and conscience and training and understanding of the facts as he or she sees them at that time.

I am hoping we can make it very clear that we do not want to interfere in that free exchange of information between the physician and the patient, or the health professional and the patient, under those circumstances. That is what the Cochran amendment seeks to address head on. And that is all it addresses. I voted for the previous amendment, but I have to admit that those who said it was an effort to codify regulation language were correct. It was an effort to do that. The Chafee amendment is an effort to do that in a different way. One would have suited the National Right to Life coalition and the administration. The other would suit the National Abortion Rights Action League and the National Organization of Women.

Mine does not suit either one of them because it does not go far enough to slant the regulations to prefer their interest that is at issue. The Cochran amendment seeks to address the issue that we were told we were addressing when we took up this bill after the Supreme Court ruled in Rust versus Sullivan, and that was to remove the gag that some said had been put on health professionals in their dealings with their patients in the family clinics who were beneficiaries of title X funds. That is what this amendment does. It seeks to do that and that alone.

Let me put one other issue in perspective. Some say since it does not write the regulations or rewrite the regulations, it leaves that to the administration, and how are we to know what they are going to do? Well, one thing seems clear to me. The administration has received a very clear signal from the other body already that the regulations as written need to be modified. The House has voted by an overwhelming majority to deny funds to the administration to implement or enforce the regulations as they currently stand under section 1008 of title X of the Public Health Service Act.

The Senate Committee on Appropriations, on which this Senator serves, has already met in subcommittee, and not one Senator voiced any objection to that House language in the bill. Not one Senator offered an amendment to strike that language. In the full Committee on Appropriations we completed our action last week on that bill. Not one Senator said one word critical of the House language in the Senate bill. So I assume the Senate is going to agree to the language brought over from the House which prohibits the administration from using any of its funds in that legislation to promulgate, carry out, enforce, administer the regulations as written.

So what I am suggesting to the Senate is that between now and October 1, the beginning of the next fiscal year, when that bill appropriating funds for Labor-HHS takes effect, that we have an interim solution, that we send a message clearly and unequivocally that we do not condone gagging professionals in these clinics. If they are asked for information, whether it is about legal, medical options available in this setting, they are free to give the information based on the facts, their understanding of the situation, and their training and background as health professionals. I think that is all we ought to do right now.

The administration, if it seeks to use any funds appropriated by the Labor-HHS appropriations bill, is going to have to modify the regulations to suit the intent of Congress as most recently expressed in that vote on the House floor and in the acquiescence of the Senate to the inclusion of that language in the bill.

If the Senate elects to adopt an amendment when that bill comes to the floor, we may have to debate it again. But this is temporary, as title X is going to be reauthorized, or the committee is going to be asked to meet to consider reauthorization language later this year, I was told.

And so we are in sort of an emergency kind of session. On June 6, we were quickly called into executive session to deal with this on the Labor Committee. Now we are on the floor dealing with it a few weeks later, but only one small part of title X.

I am hoping the Senate will not fall prey to the temptation to rewrite the regulations for the administration and slant them one way or the other, either for the abortion rights groups or for the others whose amendment was supported, which was offered by the Senator from Minnesota.

I am suggesting a different course for the Senate, Madam President, and that is simply to, first of all, make it clear that we do not condone the imposition of any gag rule; that physicians and other health professionals ought to be free to give advice and information upon request in these family planning clinics. At the same time we say clearly that there shall be no promotion or encouragement of abortion in that context. That goes back to the language of the original 1970 act. And here it is again, it is repeated and, I hope, it has renewed impact among those who accept and use these funds and under the terms of the law and regulations as they now stand.

Let me make one other comment, and then I will yield the floor. To give another example of why I object so strenuously to the Chafee bill as it is written—not the intent or the motivation, but the bill as it is written and purported to be amended—there is a provision right at the end that says even if you do not have to provide abortion counseling, if your moral convictions will be abused or infringed, if there is no other facility in the geographical area providing abortion counseling services, you must establish one with the funds that you receive as a grantee.

So how can you meet that mandate, too, I ask the Senate, and still say we are restricting this legislative effort to redress the impact of Rust versus Sullivan? This amendment is clearly an effort to go far beyond the issue of freedom of speech. It will not only create grantees in perpetuity under title X, but will also mandate certain kinds of counseling and certain kinds of services that may not be consistent with the moral convictions or other views of those accepting funds under title X.

So I hope the Senate will look at the amendment very carefully before agreeing to this and realize that it is much more than it may purport to be at first blush.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. I yield time to the Senator from Kansas on our time.

Mrs. KASSEBAUM. Madam President, I appreciate the Senator from Washington yielding. I would like to ask a couple questions of the Senator from Mississippi.

Mr. ADAMS. I yield 5 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to ask the Senator from Mississippi a couple of questions. Does not this amendment, the Cochran amendment, really take us back to the situation prior to the Supreme Court decision in Rush versus Sullivan? At that point, the Supreme Court said that when Federal moneys are used, then indeed there should be the opportunity to delineate, in some form or another parameters regarding how that money is to be used. At some point, someone has to determine the parameters of how the money will be used. Is the Senator from Mississippi suggesting that this is not the role of the Congress but it should be the role of the agency?

Mr. COCHRAN. Madam President, if the Senator will yield, I am suggesting that it is more appropriate for the Senate to act as a maker of law rather than regulation. We should make clear that the law contains a clear statement of policy, reflects the sentiment of the Senate, of the Congress. It is up to the executive branch to write the details of the regulations that carry out the laws as passed by Congress.

And so part of my objection to the Chafee amendment that is pending is that it seeks to rewrite the regulations. I think that is inappropriate. It is much more appropriate for the Senate to be on record stating what it thinks the policy should be on this issue.

Mrs. KASSEBAUM. Madam President, I suggest that it appears to me that what those of us who have been supporting the Chafee amendment are trying to do is to say what the policy is, and to delineate how we believe the Congress should respond. Then it can be voted up or down based on that policy and delineation.

There are many who believe that Congress tends to micromanage far too much. I just suggest we have tended to do that when talking about foreign aid, and I can even remember a time when we talked about what colors the shutters should be on the Embassy in Paris. The farm bill has lent itself to micromanagement, as I am sure the distinguished Senator, Senator COCHRAN, a member of the Agriculture Committee, will agree.

I can agree and understand what the Senator from Mississippi [Mr. COCHRAN] is attempting to do. But I also feel that we have been called upon at this time to step forward and be more specific about what we feel the title X funds should be used for in the broadest sense of the term and what areas should be covered in the counseling and referral done by title X clinics.

For that reason, Madam President, I really feel that the Cochran amendment will simply take us back to where we were earlier and that then we will go through this process again, with the Department of Health and Human Services developing regulations which we feel are not wise and Congress back deciding what to do once more. That appears to me to be the reason we need to take a step forward and clearly define the congressional intent. I yield the floor.

Mr. ADAMS. Madam President, I am going to yield in a moment to the Senator from Rhode Island. I simply want to state that I oppose the amendment offered by Senator COCHRAN. I understand that it is good-hearted, and was glad to hear him mention that he knew that the prior amendment would simply codify what happened in 1988.

I think what the Senator from Kansas just said is very true. What we have been called upon as a Congress to do is to restore the situation that existed, in fact, from 1970 when this law was passed, from 1981 on when the regulations defining this law were passed, which was that people coming in with a problem of pregnancy and asking for information in the title X clinic should be given full, fair information from the health professionals and the parties there.

I am very concerned about technical parts of the Cochran amendment, which I will discuss later, which is that the only information they could be given would be regarding legal options, and that is not the problem of the young, particularly a minority woman who is there for the first time and does not know just all that has happened to her. She needs medical information and she needs a full range of medical information, which is what the Congress is trying to undo, the Supreme Court's statement that they could not get it. That is the gag that went in.

It is a shame that it did and that we have to be here to correct that. I am one who, just like the Senator from Kansas, believes we should not micromanage. We have to correct a wrong that has been done. The amendment of the Senator from Rhode Island does this very well.

At this point, I yield to the Senator from Rhode Island such time as he may require. Then I want to yield to the Senator from Illinois and the Senator from Hawaii.

Mr. CHAFEE. Could I just say this to the manager? First, I want to thank the distinguished Senator from Kansas for her very preceptive comments and thank her and commend her. Second, I notice the Senator from Hawaii has been here and ready to go. I will be glad to defer to him if he wants to go ahead.

Mr. ADAMS. I thank the Senator. I yield 5 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today in strong support of S. 323, legislation which would allow federally funded family planning clinics to continue to provide pregnant women with full information and counseling about all legal and medical options, including abortion.

I share a deep concern with many of my Hawaii constituents over the recent Supreme Court ruling in Rust versus Sullivan which upheld the gag rule barring title X funded family planning clinics from providing abortion counseling and referrals. Over 12,000 women in Hawaii would bear the brunt of this Court decision.

Not only does this ruling restrict free speech—it also violates medical ethics and professional guidelines of major medical organizations including the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatricians by preventing health care providers from fully carrying out their professional responsibilities. Even if a woman requests information about abortion or believes it is medically necessary, a health care professional is prevented from counseling her about the availability of that option.

Title X clinics serve primarily low-income women. The Supreme Court ruling sets up a two-class health care system: Affluent women will have open to them a complete range of choices, while poor women will receive skewed information and options sharply narrowed by funding limitations. The restrictions would harm the poorest and most vulnerable communities.

As an original cosponsor of S. 323, which overturns Rust versus Sullivan, I am encouraged that nearly half of the Senate has signed on to the bill. It is also noteworthy that the Labor, Health and Human Services, and Education appropriations bill just approved by the House and the version reported out of the Senate Appropriations Committee last week contain provisions reversing the gag rule.

Under S. 323, doctors and other health care providers in title X funded clinics would provide nondirective counseling and referral upon request to pregnant women on options for pregnancy management. These options may include prenatal care and delivery; infant care, foster care, or adoption; and pregnancy termination.

A title X clinic or its employees may elect not to provide information, counseling or referral services on any one of the options because of religious or moral beliefs as long as the patient is advised of that fact and is referred to another project providing such information and counseling.

Mr. President, we must not deny some women crucial information they need to make a responsible choice about a very personal and complex decision. We must not put physicians, health care professionals and clinics in the untenable position of either having to deny services or risk running afoul of regulations if the gag rule remains in place.

I urge all my Senate colleagues to pass S. 323 with the Chafee substitute without further weakening amendments. I ask unanimous consent that a statement of the Hawaii Reproductive Rights Coalition, a group of more than 30 local community organizations, be printed in the RECORD.

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

HAWAII REPRODUCTIVE RIGHTS COALITION CALLS FOR OVERTURN OF "GAG RULE"

Today more than 30 local community organizations called on the Congress to pass legislation quickly to restore a woman's right to receive full and honest information on reproductive choices.

This right, the Hawaii Reproductive Rights Coalition declared, was taken away when the U.S. Supreme Court, in a 5-4 decision, upheld the Administration's regulations that would ban such counseling in family planning clinics receiving federal funds. Today's press conference featured a 17-minute videotape produced by the Chicago Planned Parenthood that depicted a counseling session both before and after the implementation of the gag rule.

Arguing that the government's regulation banning counseling on abortion will make it impossible for women to make truly informed decisions about their health, Vanessa Chong, executive director of the ACLU of Hawaii and co-chair of the Coalition, said "creating a blackout on speech, as the government has done, forces physicians to violate their code of ethics. In the meantime, the restrictions would harm the poorest and most vulnerable communities.

This view was emphasized by Cheryl Vasconcellos, executive director of Planned Parenthood of Hawaii and Coalition co-chair, who said "the gag rule strikes at the heart of the confidential relationship between the doctor and patient and substitutes government-backed ideology for ethical medical care."

It was pointed out that compelling doctors to provide incomplete information could expose them to malpractice suits and the loss of their licenses. In fact, in late June, the American Medical Association adopted a resolution at its annual convention that "condemns strongly any interference by the government or other third parties that cause a physician to compromise his or her medical judgment as to what information is in the best interest of the patient, and to affirm the right of physicians to use their medical judgment always for the best interest of the patient."

Members of the Coalition are participating in the national "Emergency Campaign to Overturn the Gag Rule," which is urging Congress and President Bush to support legislation (HB392, SB323 & HB2707) that will nullify the rule. All four of Hawaii's representatives are co-sponsors of the legislation. The Coalition is lobbying both Hawaii's congressional and local legislative leaders and also is urging its members and the community at large to do the same. A two-thirds majority vote in both the House and Senate would be required to override a threatened presidential veto. However, HB2707 passed the House 353-73 (88.2%) with many conservatives supporting the measure. It awaits action on the Senate floor. "Each day we are getting closer and closer to obtaining the two-thirds needed, so it is critical to continue lobbying your congressional representatives and urging them to recruit the support of their colleagues," the Coalition co-chairs said.

Today's press conference is part of a national "Day of Action." Delegations across the country representing more than 200 organizations will be meeting with their congressional representatives over the next ten days in Washington, D.C., in a special lobbying effort on the pending legislation.

The Coalition will be meeting later this month to further coordinate its local strategies around this issue. The Coalition also will continue its mobilization efforts in the local community on reproductive rights in general.

REPRODUCTIVE RIGHTS COALITION

Co-Chairs: Vanessa Y. Chong, American Civil Liberties Union of Hawaii; Cheryl Vasconcellos, Planned Parenthood of Hawaii.

American Association of University Women, Hawaii State Chapter.
American Civil Liberties Union of Hawaii.
American College of Obstetricians & Gynecologists—Hawaii.
Americans for Democratic Action—Hawaii.
American Friends Service Committee—Hawaii.
Catholics for Free Choice.
Committee on Welfare Concerns.
Filipinos for Affirmative Action.
Hawaii Alliance.
Hawaii Black Women's Coalition.
Hawaii Commission on the Status of Women.
Hawaii Federation of Business and Professional Women.
Hawaii Healthy Mothers, Health Babies Coalition.
Hawaii Medical Association.
Hawaii Now.
Hawaii Nurses Association.
Hawaii Public Health Association.
Hawaii State Primary Care.
Hawaii Women Lawyers.
Hawaii Women Lawyers Foundation.
Hawaii Women's Political Caucus.
Hilo Bay Family Plannming Clinic.
Honolulu County Committee on the Status of Women.
Humanists Hawaii.
Kalihi-Palama Health Clinic.
League of Women Voters of Honolulu.
National Abortion Rights Action League, Hawaii.
National Association of Social Workers.
Planned Parenthood of Hawaii.
Pro-Choice PAC.
Refuse & Resist.
Single Parents Advocacy Network.
Sisterhood Temple Emanu-El.
University of Hawaii Pro-Choice Action Group.
University of Hawaii Professional Assembly.
University of Hawaii Women's Center.
University of Hawaii Women's Faculty Caucus.
Division of Church & Society United Methodist Church, Hawaii Distict.
Windward American Association of University Women.
Women's Studies Program—University of Hawaii.
YWCA—Hawaii.

Mr. AKAKA. I yield back my time.

Mr. ADAMS. Madam President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, let me first say to my colleague from Mississippi that the Chafee amendment has moved an appreciable distance in the direction that the Senator from Mississippi called for in committee, and but for the Senator calling for it, I do not think we would have the kind of protections for people who have some scruples about certain things that legally do happen in our society.

I do not think the spirit of the Cochran amendment is that far from the Chafee amendment with the exception that the Senator has these two words in here, "upon request," which I think is not helpful in terms of what a physician can do.

I would like to just take the remaining 2 minutes, if I have 2 minutes, to speak on the bill itself.

I think it is extremely important that we reverse Ruse versus Sullivan, and it goes far beyond the abortion issue. We are talking about freedom of speech. If the Federal Government can through regulation, because a physician receives Federal funds, tell that physician what he or she can say to a patient, if that can happen in a planning clinic, then it can happen through Medicare. Then the Federal Government can say to libraries, because you receive Federal funds, there are certain books you cannot have in this library. We can say to universities there are certain things you cannot teach.

I think there is a very fundamental freedom of speech issue here, and my hope is that the Senate will resoundingly pass the bill offered by our colleague from Rhode Island. I think it is clearly in the national interest. It is in the interest of the fundamental principle of freedom of speech that we all espouse.

Mr. ADAMS. Madam President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator has about 46 minutes. The Senator from Mississippi has about 39 minutes.

Mr. ADAMS. I yield such time as he may consume to the Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished floor manager. If the Chair will let me know at the conclusion of 10 minutes, I would appreciate it.

Madam President, I think it is once again very important that we go back to why we are here. We are here because a situation that had existed for many years, was radically changed. The situation that had existed for many years was that under the regulations that were in effect from 1981 to 1988 under the Reagan administration, a counselor, physician or whoever the individual may be in the clinic was required upon request to give to the requesting woman her three options, her options of carrying the baby to term and keeping it, the option of carrying the baby to term and putting it up for adoption or foster care, and the third option the termination of pregnancy. Those were the regulations, and it was not an option on behalf of the counselor. It was mandated. It was required.

Life went along serenely until a group in HHS decided they did not like that and they wanted to change those regulations. And so what happened then was the so-called gag rule.

Bear in mind who we are talking about. A title X patient or client is a low-income woman by the very definition. She is frequently young. She is, upon discovering she is pregnant, disturbed and wondering what she can do. And so she asks the question to the counselor—it may be a nurse practitioner or it may be a physician—"What are my options?"

She is entitled to her options. She always had that answer. There was no beating around the bush. She had the answer. But in came these regulations, the gag rule, and if she asked, the nurse practitioner or whoever it was was forbidden to give her the last option. Oh, yes, you can tell her that she could carry the baby to term and have it, or carry the baby to term and put it out for foster care or adoption but not the third one. And furthermore, they were not even directed to tell her that they were not giving her her full options.

Now, you might say, oh, everybody knows about the option of termination of pregnancy. Well, that just plain is not so. Certainly for the women in this condition, the reason she asks the question is she wants an answer.

The problem with the Cochran amendment is that again it does not guarantee she gets her answer. If you read the Cochran amendment, it says that the individual, let us say the nurse practitioner, shall not be prohibited from providing upon request the information.

I will not debate over what he means by legal option. He is not prohibited, no. But he is not also required. So again she is left up in the air.

Under the Cochran amendment, it is perfectly all right, written right into law, that he does not have to give her the full answer if he does not want to.

Furthermore, you say it is micromanaging to write in what happens. Well, is it micromanaging to say that if the individual or doctor does not give her full options at least he ought to tell her? She asks. Mind you, it is upon request, even in the Cochran language, "provide upon request." The woman goes to the trouble of asking: What are my options? Under the Cochran amendment, he could give her option 1, he could give her option 2 and stop. Furthermore, he does not say, "Well, Miss, I am not giving you everything. There are others. But you can go elsewhere for those."

Why is the Chafee amendment so long? The Chafee amendment is so long in trying to accommodate the distinguished senior Senator from Mississippi, because he raised what we thought was a rather sensible problem. What he said is suppose you have some doctor who, in a clinic, has through deep moral convictions the belief that he does not and is unable to give her the final option, the termination of pregnancy; what do you do then? It might be a Catholic hospital. Let us say it is Holy Redeemer Hospital. We kind of thought that made sense. Mind you, the Senator voted against us when I brought this up in the other form last fall. He voted against it in committee. So I thought, well, he is an important player, leader in the Senate; let us do what we can to accommodate him. That required four pages.

Let me just say there is something that we have all discovered around this Senate; that the enemy of fairness is frequently simplicity. There is a great attraction to the word "simplicity," make it simple. But frequently, in writing statutes, simplicity is the enemy of fairness and nowhere is it more important than in our Tax Code. Example: Make the Tax Code simple; tax everybody the same. Somebody has 12 children over here, somebody has one child here. Do not make any difference. Keep it simple. Tax them all the same.

One over here is taking care of a wife in a hospital with Alzheimer's, or a nursing home, and the other has no dependents; tax them the same. That is simplicity.

Once you start writing the code to take care of the medical situation, take care of the catastrophic loss, take care of the large family, that is when things become complicated.

So when the distinguished Senator talks about the charms of his amendment because it is five pages and it is being micromanaging, I would call to his attention the fact that we tried to take care of this very situation that he brought up.

Let us go back now to the Catholic hospital. We provided here—by the way, these are frequently title X clinics in a Catholic hospital. A woman goes in, she asks the doctor: What are my options? We provide in here that he does not have to give her the full options because in his particular situation—or a female doctor—they have moral convictions or religious beliefs that would prevent them from mentioning termination of pregnancy.

So we cover that. But by covering it, it lengthens the bill. Does that take care of the woman who has asked a question? No, it does not. She has not received her full answer.

So we require that that physician can fail to give her her full options but he does say to her "Because of my situation, my beliefs, I am not outlining to

you the full options that exist but if you go to so-and-so you can get your options." So we take care of that.

Then the Senator says what do we do about the situation where that is the only facility within the immediate geographic area. What happens to her? She is in Woonsocket, RI, and the nearest place is 50 miles away. Is that fair to her? No. We put a provision in that if they are going to fund one of these projects where she cannot get her full option that at least she can be told they will have another place not too far away, accessible, where we provide she can get her full answer. Is she entitled to that? I think she is.

I will not spend time with each of the other objections that the Senator raised. He objected principally, as I pointed out, to the length of it. But you have to take care of these provisions.

For example, do we not want to take care of that individual within the clinic who does not give the full options because of the religious belief? Suppose we have an administration come in that is extremely pro choice. They say we are not going to fund that clinic where they will not give the full options and, furthermore, if we do fund it, make sure that doctor gets fired because he has these religious beliefs that prevents the full listing of the option.

So we provided a provision to protect that individual from being fired for that particular reason. Is that ridiculous? I do not think so.

But does it take some words? Yes. It does take some words. Is it unfair? Is it a distortion? Is it micromanaging?

Let us look at the present situation. We have to realize that running that Department of HHS right now are individuals who we can say in the most benign statement are pro active. They feel very, very strongly in their beliefs that no one should have information dealing with termination of pregnancy, and they are going out of their way to achieve it.

So we provide in here that they cannot suddenly remove title X funds from every clinic in the United States that provides for the three options and restrict them only to those selected entities where the woman would not receive her options. So we provided that language that the Senator objected to.

I am not quarreling with what the Senator says. He is going a long ways when he says it is entitlement or there is no way of removing the grant. We say it cannot be removed for that particular purpose.

Can it be removed because they are sloppy, they do not keep records, the place is unclean, or because the statistics clearly show they slant their advice one way or another? Sure. But they cannot remove it because of providing or not providing particular advice concerning termination of pregnancy.

So, Madam President, if the charge is that it takes some words to accomplish everything we did, to accomplish namely what was an attempt to please the Senator, I must say he is a hard man to please. We went out of our way, but we did not make it. But I am glad we tried.

As the distinguished Senator from Illinois said, it was a good point. I think we should take care of those who are in religious hospitals, for example. That is what we have done.

So I hope that not only will we receive support for my measure as to the substitute, but also that we will reject the amendment by the distinguished Senator from Mississippi.

Mr. ADAMS. Does the Senator from Mississippi wish to yield time to anyone on his side? I wanted to yield to the occupant of the chair in a moment.

Mr. COCHRAN. Madam President, I will respond by saying that there will be another statement or two made on this side of the issue before we yield back our time.

The Senator may proceed, if he would like to, to take the chair and yield to the distinguished Senator from Maryland.

Mr. ADAMS. I am going to do that. I will, at this point, yield 5 minutes to the Senator from Maryland.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, thank you for not only yielding, but for taking the chair so that I might speak.

Mr. President, I rise in opposition to the Cochran amendment and on behalf of the Chafee amendment. I want to thank my colleague from Rhode Island for his most enlightened, well-thought-through substitute that I think vastly improves the legislation pending. I think it accomplished several objectives that we wish to.

No. 1, it will overturn the Supreme Court decision that really constitutes what we now call the "gag rule." I think it is important that we overturn that Supreme Court decision, because I think the Supreme Court decision intrudes on the doctor-patient relationship.

The doctor-patient relationship within our society has always had a special, sacrosanct, and inviolate status. That status was this: What occurred between a doctor and a patient was viewed with the utmost privacy and confidentiality, and a doctor-patient relationship was based on mutual trust.

The patient knew that the doctor had taken the Hippocratic Oath and subscribed to ethical standards and competency in medical practice. The patient, therefore, knew that when she or he sought the doctor's advice, they would get the best medical advice, and there would be no intrusion in that advice to be given; that there would be no government mandate, no government intervention that would in any way bar, impede, or derail the free flow of information that must occur between a doctor and a patient.

What we have here is a Supreme Court decision and a prior legislative framework that would forbid a doctor to give this information—crucial information, crucial to making an informed choice, and in some cases even life-saving information—on the matter of pregnancy.

If I were a member of the American Medical Association, I would be on the barricades about this Supreme Court decision. In my mind, this is the first step of who knows what future intrusion into the medical practice. I think the AMA and the Congress of the United States should be absolutely up in arms on this.

In the course of debate on access to health care—a whole other topic—I have been approached by physicians who have voiced very clearly their opposition to the concept of managed care. They say that will bring bureaucracy into the doctor-patient relationship.

Well, Mr. President, we have talked about managed care in a cost-containment framework. But this gag rule is ultimately an intrusion—and managed care—into the doctor-patient relationship. If ever there was a single action that managed care in this society, this is it. This is the ultimate cameo of managed care.

I bring to my colleagues' attention that where government intrudes in these matters, repugnant practices occur. We have the example where Government intrusion mandates abortion as family planning, whether it is for sterilization, or possibly even coerced abortions.

We saw forced family planning or family counseling in Romania. In Romania, they had, under Ceausescu, a childbearing quota bill. Every woman who reached the age of 13, or puberty, had to participate in a government program to have at least five children. Up until that time, she had to go and be examined to make sure she was not using birth control, so she could produce for the Ceausescu government a lot of little Communists. Well, that was repugnant.

So that is what happens when government intrudes, and that is why I state I do not believe in the managed care of family planning. That is why I am going to vote for the legislation and the Chafee substitute.

I understand that the Cochran amendment is indeed well intended, but the consequences are negative. They have been said quite articulately by my colleague from Kansas. And what she says, this will put us back exactly where we are.

The Chafee substitute takes into consideration religious and bona fide ob-

jections by anyone. The Chafee substitute takes into consideration, in a very clear and unequivocal way, those people who have a conscientious objection to giving abortion information. It protects the Catholic hospital; it protects those, whatever their religious convictions, who give that advice, and enables them to excuse themselves on that grounds.

That reflects a pluralistic society. It protects the person who has a religious or moral objection, but at the same time, it does not have a government barricade against giving the information to those who want to give it, as well as those who want to receive it and need to receive it.

So, Mr. President, when my name is called, I am going to vote against the Cochran amendment. It does not accomplish a purpose. I am going to vote for the Chafee substitute, and I am going to vote to make sure that doctors can talk to their patients without the intrusion and heavy hand of government.

I yield the floor.

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

Mr. ADAMS. Mr. President, we have one more speaker, who we understand is on his way—Senator ROBB—to address the Senate.

How much time is remaining on each side?

The PRESIDING OFFICER (Mr. ROCKEFELLER). Twenty-five minutes exactly, and 39½ minutes on the other side.

Mr. ADAMS. Twenty-five minutes on our side and 39 minutes on the other side?

The PRESIDING OFFICER. That is correct.

Mr. ADAMS. Mr. President, I yield myself such time as I may consume.

Mr. President, I have in front of me the letter that came in on July 15 from the American College of Obstetricians and Gynecologists. It goes really directly to this amendment.

I want to read one paragraph from it, and then I will put the entire letter in the RECORD.

This paragraph states as follows:

When patients seek care from health professionals, they trust that they will receive complete and unbiased counseling. Complete disclosure is essential for patients to exercise their right to make informed health care decisions—legally referred to as the right to make "informed consent." By prohibiting health professionals from disclosing fully the treatment options for unwanted pregnancies, the gag rule abridges the patients' right to informed consent.

Further quoting:

Perhaps the most disturbing consequence of the gag rule is its implication that when government pays for health care, government becomes the censor of the medical information that can be provided to the patient. Allowing the government to define by edict the bounds of permissible medical disclosure reflects a society in which health professionals are instruments of the government and patient needs are secondary to political ideology. In Title X and all health contexts, physicians and health professionals must be free to provide all the information that sound medical practice requires.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD at this point.

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

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, July 15, 1991.

Hon. BROCK ADAMS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ADAMS: The undersigned medical and nursing organizations urged your support for a substitute to be offered by Senator JOHN CHAFEE when S. 323, the Title X Pregnancy Counseling Act of 1991 is considered by the full Senate.

The substitute would nullify the 1988 Health and Human Services gag rule, which prohibits health professionals who work in facilities receiving title X family planning funds from disclosing all medically relevant information to patients about management of unwanted pregnancies. The substitute would also exempt individuals working in title X clinics and clinics themselves from providing information about all options if this information is contrary to the religious beliefs or moral convictions of the individual.

By censoring communications in this manner, the gag rule grossly interferes with the health professional/patient relationship, forces health professionals to violate their legal and ethical disclosure obligations, threatens harm to patients' health, and deprives patients of their right to make informed health care decisions.

When patients seek care from health professionals, they trust that they will receive complete and unbiased counseling. Complete disclosure is essential for patients to exercise their right to make informed health care decisions—legally referred to as the right to make informed consent. By prohibiting health professionals from disclosing fully the treatment options for unwanted pregnancies, the gag rule abridges the patients' right to informed consent.

The gag rule simultaneously forces health professionals to violate their legal and ethical duties to provide complete and objective counseling about treatment options, health risks, and appropriate follow-up and referrals. Professionals who adhere to the gag rule and deliver only the censored message will therefore be subject to medical liability actions. Putting health professionals in the untenable position of choosing between violating the gag rule or their duties to their patients will cause the professionals to abandon the title X program.

The gag rule threatens the health of our patients. When title X patients who seek nondirective counseling about treatment options for unintended pregnancies are turned away, they receive lesser health care than the health care that more fortunate women can afford.

Perhaps the most disturbing consequences of the gag rule is its implication that when government pays for health care, government becomes the censor of the medical information that can be provided to the patient. Allowing the government to define by edict the bounds of permissible medical disclosure reflects a society in which health professionals are instruments of the government and patient needs are secondary to political ideology. In title X and all health contexts, physicians and health professionals must be free to provide all the information that sound medical practice requires.

For the foregoing reasons, the undersigned medical and nursing organizations strongly urge your support of the Chafee substitute that would nullify the gag rule.

Sincerely,

American Academy of Nurse Practitioners, American Academy of Pediatrics, American College of Nurse Midwives, American College of Obstetricians and Gynecologists, American College of Physicians, American College of Preventive Medicine, American Fertility Society.

American Group Practice Association, American Medical Association, American Medical Women's Association, American Nurses' Association, American Psychiatric Association, American Public Health Association, Association of Reproductive Health Professionals.

NAACOG: The Organization for Obstetric, Gynecologic, and Neonatal Nurses, National Association of Community Health Centers, National Association of Neonatal Nurses, National Association of Nurse Practitioners in Reproductive Health, National Conference of Gerontological Nurses, National Medical Association, National Organization of Nurse Practitioner Faculties.

Mr. ADAMS. Mr. President, I have quoted these two paragraphs because they go to the amendment that has been offered in good faith by my very good friend from Mississippi. The problem with the amendment is the one mentioned by the Senator from Rhode Island. We have to look at the reality of the situation that we face here.

I will give you the reality, for example, of one young woman calling on the Planned Parenthood clinic in Seattle, which happens to be a very good one. It is run by Miss Lee Minto, has been for many, many years, and they do not attempt to counsel people to have abortions at all. But what they do in that clinic is to carry out what is stated so well by the American College of Obstetricians and Gynecologists, and that is when they are faced, as they are by one person in five that comes into that clinic, with a young woman with an unwanted pregnancy, not understanding what all may have happened or what could happen or what her options might be, they have a requirement really ethically as well as morally and legally, as set forth in the letter and as set forth so well in the amendment by the Senator from Rhode Island, to give complete and honest medical advice, or if they cannot and are not going to give such advice, to be certain that the person before then knows they are not getting that advice and that they are referred to where they can get full medical advice.

We just simply cannot have in this country, and it is not meant to be, that somebody who holds themselves out to be a professional, whether it is a law-

yer or a doctor or an accountant, that a person comes in, and because of the superior training of another person in another field, they come for advice and they come for information, and as happens in one case out of five in this particular type of situation, there is a far different and more serious problem than the person coming in knew existed. It is as though you go to a doctor for a regular checkup and the doctor says, we are concerned that you may have cancer or that you may have another type of disease. The doctor, just as in this case, is required to give the patient full information or, if the doctor does not have that information or, as has been provided by the Senator from Rhode Island at the request of others, has some conscientious reason for saying, well, maybe there is a treatment for cancer in Canada, but I do not believe in it and I do not think I should talk about it, they have to say that what they know that might be helpful is available someplace else.

This is not just a legal option, as is stated in the amendment of my good friend from Mississippi; this is a relationship that is real life. And I have been in those clinics, just as I know the occupant of the chair has and the other Members of this Senate, and the people coming into these clinics are people who are in some of the most vulnerable conditions of their entire life, and we as a Congress and the Supreme Court, operating on a law that we have previously passed, should not be placing regulations or guidelines that prevent that person from getting complete information. And as I said in my earlier remarks today on another amendment and as was mentioned by the Senator from Rhode Island, we could have a very different kind of government here. We could have a government that would say you must have a child, or a government that would say you cannot have a child. We do not have that kind of government. And we should not have that kind of a gag placed on people to produce that kind of a government. That young woman appearing there is entitled to fairness and decency from the people who are there, which is a full range of options, and then she can made her choice or she can go elsewhere to get additional information if that is necessary.

So I hope this amendment will be defeated and that the amendment of the Senator from Rhode Island will be adopted in its present form. If is well thought out. It goes back to the practices that were followed successfully and well since 1970 under the law, since 1981 under the guidelines, and it was only in 1988 when an ideology was thrust upon these guidelines that then the Supreme Court passed and put a stamp of approval on that ideology that says, no, you can just advise on certain parts and not even tell the person that you are not giving them full advice. That is a monstrous situation, and we can correct it.

I think the Senate today will correct that. We will be the better for it. The Nation will be the better for it. And particularly those who are helpless, and those who require that this society treat them with fairness will receive that fairness regardless of whether they have money, but because they are human people with significant problems who need to be treated fairly.

So, unless the Senator from Rhode Island is here or the Senator from Massachusetts wishes to make a speech.

Mr. KENNEDY. He wishes to speak.

Mr. ADAMS. I am sorry. Senator ROBB has arrived, and I will yield to the Senator from Rhode Island. The Senator from Virginia [Mr. ROBB] is to be recognized for 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ROBB. Mr. President, I thank you and I thank my colleague from Washington.

Mr. President, I rise today in support of S. 323, the Title X Pregnancy Counseling Act of 1991, and to oppose regulations promulgated in 1988 by the Department of Health and Human Services that have become commonly known as the gag rule.

These regulations prohibit health care professionals working in facilities receiving title X funding from offering pregnant women non-directive counseling and referral services on pregnancy termination. These regulations do not ban all counseling and referral services in title X clinics. Information on prenatal care, foster care, and adoption services can—and should—continue to be provided. Only information on pregnancy termination—even though it is a lawful medical option—is forbidden under the gag rule.

The gag rule makes ignorance America's public policy. It implies that the way to serve people is to keep them in the dark. It treats grownups as if they can't be trusted to make their own decisions. And the gag rule seems to put Big Brother into the examining room, right between the health care provider and the patient.

I believe that American women can be trusted to make their own decisions. But without full information, responsible decisions become impossible.

Earlier in this debate, our colleague from New Mexico, Senator BINGAMAN, made an analogy between mandating a doctor/patient dialog in title X clinics and prohibiting a public defender—whose salary is also paid by the public—from advising an indigent client of his or her fifth amendment protection against self-incrimination.

But this analogy can go even farther. If Government funds can be used to curtail the advice given by professionals, public defenders can be told not to advise their clients that they may plead innocent. Social workers can be directed to withhold information about the existence of food stamps, or public assistance. And teacher can be ordered to leave the theory of evolution out of their lesson plans.

I believe that America cannot, in any circumstance, support ignorance over information. Our country was not built on repression of information or limiting choices. A Government which puts ideology before people will not endure. Nor should it.

That, Mr. President, is why I was an original cosponsor of legislation introduced last year to reverse these regulations, and that is why I am an original cosponsor of S. 323.

Another component of this debate, Mr. President, which causes me great concern, is the socio-economic disparity between those affected by the gag rule and those completely untouched by this debate. The Government sponsors health care services for needy Americans because we realize that everyone deserves access to medical care. But the gag rule says there are two classes of care in our country. If you are rich, you go to a private doctor and get the best medical advice he or she can give. And if you are not as well off, you go to a public clinic and get only that advice which the Government says you can have. How can we contemplate taking choices away from individuals who have so few to begin with?

If a Member of this body walked into a doctor's office seeking medical information and was denied a complete list of options, we would be outraged. And we should be outraged. But as legislators, we cannot allow an entire class of women in this Nation to be subjected to a standard of medical assistance we ourselves would find unacceptable. The inalienable rights of individuals guarantee all Americans equal opportunity. Some will, inevitably, be able to afford better care than others. But I believe that a person's wealth should never affect their treatment by Government. It should never limit the information a person is given. To declare some subjects out of bounds on ideological grounds is a very dangerous precedent.

I am also cosponsor of this bill because of its importance to my own State of Virginia. The Commonwealth's entire allocation of title X funding—$2½ million in fiscal year 1991—is sent not to private clinics, but directly to our State Department of Health. This year, the Virginia Department of Health, combining title X with various other State and Federal revenue sources, provided $17 million in family planning assistance to 165 of the Commonwealth's 168 state-operated public health clinics. Last year, 82,760 low-income Virginians received family planning assistance through funding administered by the State public health clinics.

I do not advocate abortion as a method of family planning, Mr. President. Neither does this bill. But this debate is not about our views on abortion; it is about information. It is about the need for health care professionals to be able to deliver their advice without fear of Government retribution. It is about whether this administration or any administration can dictate individual beliefs.

It is, simply, about whether America will be ruled by ignorance or enlightenment, cruelty or compassion. I urge my colleagues to support America's right to know.

Mr. President, I thank the Chair and I thank the Senator from Washington. I yield back any time remaining.

Mr. ADAMS. Mr. President, I yield 3 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 323. I wish to commend the Senator from Rhode Island for sponsoring this legislation.

I particularly want to note the fact that we are seeing a bipartisan effort in working to overturn the 1988 Department of Health and Human Services regulations which were recently upheld by the Rust versus Sullivan decision of the Supreme Court. The fact that it is a bipartisan effort tells you something about the value of eliminating the so-called gag rule.

I joined Senator CHAFEE and other Senators as original cosponsors in introducing this legislation and I would urge the Senate to approve S. 323, which overturns regulations that forbid federally funded clinics from even discussing the option of abortion with women.

These regulations have been in place since their adoption in 1988 by President Reagan's Department of Health and Human Services. Then, for the first time, our Government explicitly prohibited clinics from even discussing reproductive options with women seeking family planning services.

Now, with the Supreme Court's decision, clinics have until August of 1991 to choose between serving their clients and losing Federal funding. That is in some cases a Hobson's choice—between abiding by the gag rule and cutting back significantly, perhaps even closing off totally, the services offered.

Mr. President, the Congress passed the Family Planning Services and Population Research Act in 1970, to provide, among other things, family planning information to women. The essence of family planning, Mr. President, is for doctors and health care workers to provide information to women who come to their clinics, including information about reproductive choices. In 1988, however, the Reagan administration sought to gag doctors and health care workers by prohibiting the discussion of reproductive options for women. This is inconsistent with the basic premise of family planning. Family planning is designed to provide women with options and information—not to hide them from them.

Denying women full information about their reproductive choices is also a violation of the rights and privileges of a doctor-patient relationship.

I do not believe the Government should regulate the discussion of legal options that women may have during family planning and reproductive counseling.

Mr. President, whether or not a woman considers abortion as an option during pregnancy is a personal decision based on an individual's moral and religious views, medical needs, and ability to take on the responsibilities of parenthood. I do not believe that Government should intrude on such personal decisions. It should not intrude by blocking those decisions directly. Nor should it try to block those decisions indirectly, by denying information, and by promoting ignorance.

Government should not look over the transom and under the doors of Americans to monitor what patients may ask, and what doctors and counselors may say about lawful medical procedures. To deny information to women that affects their health or their range of options is disturbing.

Mr. President, information is power—in this case, the power of women to make some of the most important and intensely personal decisions in their lives. The gag rule is meant to block the flow of information. The gag rule is meant to take power away from women. The gag rule is meant to legislate ignorance. What a sad, sad thing for a free society to do.

The right thing—the just thing—to do is to prohibit implementation of the gag rule and restore the rights of American women to informed counseling, to know what their options are and to permit them to make these most painful and sensitive decisions based on full information and open and free discussion with their doctors.

So, Mr. President, I think that the action taken here is going to send a message across this country that says you do not have to be well off to have access to information about reproductive choices.

So I commend the manager, the Senator from Washington, and hope that we will take swift action on approving S. 323, and get this behind us once and for all.

I yield the floor.

Mr. ADAMS. Mr. President, I have no further requests for time. Does the Senator have further requests for time?

Mr. COCHRAN. Mr. President, we do have one request for time and I will take some time to sum up, so we should be wrapping up debate on this side within a very few minutes.

Mr. President, it has been interesting to hear the comments made by those speaking in support of S. 323, the committee bill, pointing out that one of the reasons for urging its approval by the Senate is to ensure that the Government does not tell physicians or health care professionals what they must say in a counseling situation at a health care clinic.

Well, if that is their purpose and motivation they should vote against the Chafee amendment, because the Chafee amendment mandates speech. It requires counseling on termination of pregnancy.

If you want to get around the gag rule you could vote for the Cochran amendment. It specifically prohibits the Government from interfering in conversations between the patient and the medical professional. That is what we are seeking to address. That is why the Labor Committee met on June 6 after the Supreme Court handed down its ruling on May 23. That was the whole purpose for getting this bill to the floor, or some bill, to make sure that that was understood by the administration and by the agency administering this program.

What we have seen develop is a gag rule in reverse, requiring that certain statements be made by professionals in this situation, but going further and guaranteeing the continuation of grants; going further and requiring the availability of abortion counseling services and referral services in certain geographic areas where they may not now be available, and these must be made available by grantees under title X.

Mr. President, we are seeing the extinction of the law and new regulations written under the Chafee amendment. So I hope the Senate will adopt the alternative and adopt the Cochran amendment.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point, an editorial entitled "Let the Clinics Be Clinics," in support of the approach that I am suggesting, that appeared in the Los Angeles Daily News on June 9.

[From the Los Angeles Daily News, June 9, 1991]

LET THE CLINICS BE CLINICS

The U.S. Supreme Court had at least a plausible legal argument on its side last month when it upheld a federal regulation barring employees of clinics receiving federal funds from suggesting the abortion option to patients. But that doesn't make the regulation itself any less objectionable.

This is a nation of laws and, whether everyone likes it or not, those laws make abortion legal. If clinics are to carry out their responsibility to counsel patients, they have to be able to tell them the full story about their options. As Sen. Thad Cochran, R-Miss., said last Thursday, "It disturbs me that under this regulation a physician would not be fully able to respond to a question put to him." (This from a conservative who is generally anti-abortion).

So Congress needs to set matters straight and revise the law on which the 1988 rule was

based. On Thursday, the Senate Labor and Human Resources Committee took a step in that direction when it approved a bill by Sen. John Chafee, R-R.I., that would lift the gag order. The House is considering a similar measure.

But the bill first must be rewritten to avoid the appearance that it is promoting abortion by requiring physicians to mention it. That, as Cochran noted, would be "a gag rule in reverse."

In its present version, the bill says, "Women requesting * * * information regarding options for management of an unintended pregnancy shall be provided with nondirective counseling and referral on request concerning alternative courses of action that shall include prenatal care and delivery; infant care, foster care, or adoption services; and pregnancy termination." That language not only dictates medical advice unnecessarily but also will drive potential supporters; such as Cochran, away.

Asked if he might vote for the measure if the word shall is changed to may, Cochran said, "I would have a hard time figuring how to vote against it." The change could indeed make the difference between a bare majority for the bill and a two-thirds edge, and it will need those extra votes. President Bush has pledged to veto it.

This change of wording would not get in the way of the bill's legitimate purpose: To leave the nature of medical counseling to the doctors' discretion. It would be consistent with the strongest argument against the abortion gag rule—that the federal government should refrain from dictating what a doctor says when a patient asks, "What are my choices?"

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the distinguished Republican leader of the Senate, Mr. DOLE.

Mr. DOLE. Mr. President, I will just take 1 or 2 minutes and I hope we can then vote on the Cochran amendment. I hope it is agreed to.

I just want to make a couple of points because this has been a very sensitive issue. It is a very controversial issue. We met this morning, people on different sides, with different amendments, to see if there was any way to reconcile the difference. We could not find any way. Maybe there is. Maybe it will develop later on.

But I think one thing we should make clear is this debate is not about Federal funding of abortions, and it is not about the value of parental care, or family planning. It is a debate over what information should be provided to those who seek care from title X clinics.

This Senator has a long and consistent history of opposing Federal funding of abortions. Consistent with that point of view, the Senator from Kansas does not believe federally funded clinics should in any way encourage or promote abortions. However, in my view, that does not argue against the ability of the clinic to provide full counseling and referral services to those who seek care.

As Senator COCHRAN has stated, his amendment does not limit nor does it direct speech. It allows physicians and others in the clinic to answer the questions of the women seeking advice in a manner they feel to be appropriate as long as the advice is nondirective, neutral.

We all know one of the most important things we can do for pregnant women is to get them into the health care delivery system as quickly as possible. When they come to the title X clinic the last thing in the world we want to do is send them away without answering their questions. Senator COCHRAN's amendment allows health professionals to meet their professional responsibility and help the patients secure the information they need to make their own decision.

Title X clinics have as their primary responsibility counseling with respect to family planning. This should continue to be their focus. Others are better able to fully respond to the needs of women who are pregnant and are seeking prenatal care, adoption services, or information on terminating a pregnancy. I believe women seeking care should be appropriately referred. I also believe that this amendment, the amendment by the distinguished Senator from Mississippi [Mr. COCHRAN] lets that happen without influencing the results.

I know the Senator from Rhode Island has worked with the Senator from Mississippi. They did not quite come together. But it seems to me that the Cochran approach is one that could be embraced by nearly every Senator, and I hope his amendment will be agreed to.

Mr. ADAMS. Does the Senator from Rhode Island wish to speak?

Mr. CHAFEE. Mr. President, if I might, I know my colleague is about to yield his time, so before he does that, if I might take a couple minutes to respond to my distinguished colleague, the Republican leader, and point out in the Cochran amendment it does not have anything about referral and it does not have anything about ensuring that the woman receives her full list of options. They may give her the list of options but it is not required. Nor is it required in the absence thereof that she be referred where she can get that full list. That is the problem with the Cochran amendment.

I thank the Chair.

Mr. ADAMS. We are prepared to yield back the remainder of our time.

Mr. COCHRAN. Mr. President, if there is no further request for time on the other side, I am prepared to yield back the remainder of our time, and I do yield back the remainder of our time.

Mr. ADAMS. We have no further request for time and we yield back the remainder of our time.

Mr. COCHRAN. 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. There being no further debate, the question is on agreeing to the amendment of the Senator from Mississippi.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 14, nays 85, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—14

Bond	Danforth	Lugar
Boren	Dole	Pressler
Cochran	Domenici	Thurmond
Conrad	Kasten	Wallop
D'Amato	Lott	

NAYS—85

Adams	Gore	Moynihan
Akaka	Gorton	Murkowski
Baucus	Graham	Nickles
Bentsen	Gramm	Nunn
Biden	Grassley	Packwood
Bingaman	Harkin	Pell
Bradley	Hatch	Reid
Breaux	Hatfield	Riegle
Brown	Heflin	Robb
Bryan	Helms	Rockefeller
Bumpers	Hollings	Roth
Burdick	Inouye	Rudman
Burns	Jeffords	Sanford
Byrd	Johnston	Sarbanes
Chafee	Kassebaum	Sasser
Coats	Kennedy	Seymour
Cohen	Kerrey	Shelby
Craig	Kerry	Simon
Cranston	Kohl	Simpson
Daschle	Lautenberg	Smith
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Symms
Durenberger	Mack	Warner
Exon	McCain	Wellstone
Ford	McConnell	Wirth
Fowler	Metzenbaum	Wofford
Garn	Mikulski	
Glenn	Mitchell	

NOT VOTING—1

Pryor

So the amendment (No. 755), to amendment No. 753, was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, I rise to offer strong support for the Chafee substitute amendment to S. 323, the title X pregnancy counseling bill. I am proud to be a cosponsor of this extremely important piece of legislation, which would overturn the Department of Health and Human Services' gag rule. This certainly is an appropriate name for these pernicious administration regulations: The regulations put a gag on medical professionals, prohibiting them from providing full information for the women they counsel in title X clinics. These regulations put medical providers in an untenable situation. It requires them by law to pro-

vide political propaganda about what the administration chooses to promote, rather than comprehensive information about their patients' medical and legal options. Yet if medical professionals follow these regulations, it places them in violation of medical codes of ethics and forces them to forfeit their first amendment rights to free speech.

In my opinion, the nature of the doctor-patient relationship requires complete disclosure of information regarding options for treatment of a given medical condition. Obviously, Chief Justice Rehnquist and a narrow majority of the Supreme Court do not agree with this. In his majority opinion in the Rust versus Sullivan case, the Chief Justice wrote:

> Nor is the doctor-patient relationship established by the title X program sufficiently all-encompassing so as to justify an expectation of comprehensive medical advice.

I emphatically disagree. We do not go to our doctors to obtain the political opinions of the occupants of the White House or the Congress. We go to our doctors to obtain complete and sound medical advice so that we can decide—personally, in consultation with our families and our medical providers—what medical services to obtain.

The administration regulations that the Chafee bill would overturn are pernicious not only because they violate free speech and the doctor-patient relationship in an intolerable manner. The regulations also further exacerbate the problems of a health care system already skewed to the benefit of the wealthy at the expense of the poor. Women who go to title X clinics for their health services are primarily low-income women, often young, often minorities. They are women who have limited access to health care. Under the gag rule, these women—young, poor, minority, uninsured—would not have only limited access to the benefits of our health care system; they would no longer even have a right to complete information about their health care options. We must not create a two-tiered health care system, which requires that physicians treat patients differently depending on their financial status, where poor women cannot even be informed about their medical and legal options. Under the gag rule, this outrageous, discriminatory practice would be required by Government order.

If we are to be a Congress that stands up for the ethical delivery of health care to all, whether rich or poor; if we are to be a Congress that stands up for the first amendment and the right to free speech; if we are to be a Congress that stands up for the privacy of a patient-doctor relationship, we must act now to overturn the administration's gag rule. I urge all my colleagues to vote in favor of the Chafee amendment to S. 323.

Thank you, Mr. President, I yield the floor.

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

AMENDMENT NO. 756

(Purpose: To require entities receiving grants under title X of the Public Health Service Act provide for parental notification in the case of minor patients who request an abortion)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 756.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, add the following new section:

SEC. . PARENTAL NOTIFICATION REGARDING ABORTION.

Section 1004 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary may not make a grant under this section unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

"(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provided to the parent, except that notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dwelling house or usual place of abode (as defined by rule 4 of the Federal Rules of Civil Procedure for the United States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

"(2) The physician with principal responsibility for making the decision to perform the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent her death and there is insufficient time to provide the required notice.

"(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by the applicable State law, provided that in any such case the physician notifies the authorities specified by such State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

"(4) The entity complies with an applicable State or local law that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.".

AMENDMENT NO. 757 TO AMENDMENT NO. 756

(Purpose: To require entities receiving grants under title X of the Public Health Service Act provide for parental notice or consent in the case of minor patients who request an abortion)

Mr. MITCHELL. Mr. President, in behalf of Senator CHAFEE, Senator COHEN, Senator KASSEBAUM, and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM, proposes an amendment numbered 757 to amendment No. 756.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word and insert the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection)

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(1) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph

(3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated from that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologists, social worker, physician's assistant, nurse practitioners, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 16 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interests of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

Mr. MITCHELL. Mr. President, I would like to speak for a few minutes in support of the amendment.

Mr. President, I believe that the amendment proposed by my friend, the distinguished Senator from Indiana, would best be considered on other legislation. The bill before us concerns only one issue, and that is the issue of the regulations which dictate to health care professionals what kind of information they can give to their patients in the setting of a family planning clinic that receives Federal funds.

The amendment offered by the distinguished Senator from Indiana, by contrast, concerns the performance of abortion services. The bill does not deal with the performance of abortion services.

The lengthy statements made throughout this debate about abortion notwithstanding, nothing in the Chafee bill encourages, permits, or promotes performance of a single abortion.

All that the Chafee bill would do is to restore to the physicians and other health care professionals in family planning clinics the right to practice medical care in accordance with the ethical requirements of their profession.

I need not repeat the lengthy lists of medical practitioners who have protested the effect of these regulations. The Senator from Rhode Island made it clear this morning that the entire medical community is united in opposition to these regulations.

That is what this debate is about.

The efforts to inject the question of minors and abortions into the debate is an attempt to create a red herring and to distract attention from the fact that the regulations which President Bush is upholding are entirely indefensible.

Those who oppose abortion have repeatedly made the claim that Americans do not favor abortion as a method of family planning. But in America, abortion is not a method of family planning and never has been.

Abortion is no one's first choice; rather, it is an unavoidable and tragic decision that some women feel forced to make for themselves.

The opposition has tried to make this a debate over the desirability of abortion. But that is irrelevant. No one in the Senate thinks abortion is desirable. No woman believes that. It is not an issue.

What is at issue is whether we should permit the Department of Health and Human Services or any other Government agency to dictate to the health care providers of this country how they can practice their profession.

That is what is at issue.

The interjection of the question of parental consent to a minor's abortion is nothing but an effort to move the debate away from that reality and steer it into an area where it is hoped that emotionally charged rhetoric can sway votes.

The amendment that Senator CHAFEE, Senator COHEN, Senator KASTEN, Senator KASSEBAUM and myself offer is not designed to make an emotional appeal. It is simply a more carefully and rationally crafted alternative to the proposal by the Senator from Indiana.

It takes the experience of States where such laws are on the books. It would provide for parental consent where that consent is forthcoming—in the vast majority of cases, by the way. It would permit the consent of another responsible adult—a grandparent, an adult sibling or an uncle or aunt, where the parents are not present.

It would permit the attending physician to give parents or guardians 48 hours notice in advance of performing an abortion.

It would permit a licensed health care professional or an ordained clergyman or woman to make the determination, if it is appropriate, that a minor's interests would be harmed by notification of parents, and that a minor is nonetheless mature enough to make the decision for herself.

And it would provide for a judicial bypass procedure, where a minor could, if necessary, apply to a competent court for permission to make the decision for herself.

The issue of parental notification and consent is one on which all agree: Ideally, no minor should make a decision about a pregnancy without consulting her parents or other adults. That is the ideal situation. But, unfortunately, not every situation is ideal. Minors from dysfunctional families become pregnant. Minor girls in some families are victims of incest. Girls in some families are subjected to physical and sexual abuse. Parents may be neglectful or thoughtless. Parents may be absent because of divorce. Parents may be substance abusers.

It is a tragic fact. It is a reality that every social service agency in our Nation can document some families where such circumstances exist.

Everyone here knows that passing a law will not by itself make a violent family into a caring, supportive one. All the speeches in the world about the importance of a girl communicating with her parents are not going to change an abusive parent into a loving one, and are not going to correct the wrongs of incenstuous parents.

The amendment we propose simply recognizes that real world realty. It is based on common sense and on something that I believe the other amendment does not address, the best interests of the girl concerned.

I urge Senators who wish to return to the debate over the gag rule regulations to vote for this alternative. It is a moderate, a reasonable, a responsible way to ensure adult involvement in a minor's abortion decision, a goal we all can support.

Mr. President, I yield the floor.

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

Mr. COATS. Mr. President, I would like to respond in two ways to the situation that is currently at hand: first, to explain what it is that the Coats parental notification first-degree amendment does and does not do; and then, second, to respond to the majority leader's second-degree amendment and what it does and does not do.

First of all, Members need to know that the parental notification amendment is what it says it is. It is not a parental consent amendment. It is a parental notification amendment. The bill requires that if an entity under title X performs abortions on minors 17 years of age or under, in order to continue to receive or to receive in the first place funds under this law, they will agree to provide notice to one parent of that minor that an abortion has been requested and that it will be performed within 48 hours after the notification by that one parent is received.

The legitimate question is raised that parental consent, perhaps in some instances, may cause a young girl faced with an unwanted pregnancy to engage in a perhaps unsafe abortion procedure or to forego an abortion or make a wrong decision. Because those concerns were raised, and while I personally do not ncessarily share that view, it is important to recognize that the amendment before us only deals with notification. It only deals with notification of one parent in recognition of the fact that families do not always consist of both husband and wife, that divorce often has taken place, and these families are dysfunctional. And therefore, notification of both parents is sometimes very, very difficult.

It is also important to note that the Coats amendment provides an exception for this notification. If a medical emergency exists which threatens the life of the girl that is requesting the abortion, and also if the girl requesting the abortion reports that she is the victim of incest, child abuse, or neglect, therefore, the doctor receiving the request for the abortion need not inform the parent of the request. Obviously, we are trying to avoid a situation in which the doctor or the medical provider is reporting or notifying the very parent that perhaps has engaged in the abuse, or the neglect, or has been engaged in the incest.

These are very important exceptions, and they are exceptions designed to address those exceptions that the majority leader spoke about when he offered his second-degree amendment.

The question before us is, for a child which is, by law, considered a minor, unemancipated minor, whether that parent has a right to know whether or not their daughter has requested a medical procedure that, in many instances, could be dangerous, could adversely affect her health. The question is whether a parent has the right to be aware of the fact that their daughter has found herself in a very difficult circumstance and, perhaps can provide some guidance or some direction.

Whether or not you believe that abortion is a viable alternative at that point, I do not really understand the basis for objecting to a parent knowing the situation. That parent might want to ensure that if an abortion is to be performed, it is performed by competent medical personnel. They might want to counsel their daughter that while this certainly is not the news the parent wanted to hear, in recognition of the reality of the situation, it would be wise to find the very best medical assistance available, that the daughter need not cross the State line and find a back alley, but there are safer alternatives available.

So the argument that it is dangerous to the young pregnant girl to even notify one parent, I find difficult to accept. The majority leader indicated in his presentation of the second-degree amendment that consent sometimes was difficult to obtain. It is important, again, to point out that this is not a parental consent amendment. This is a parental notification amendment.

The minority leader indicated that a minor's interest might be harmed by notice to a parent. I would suggest that a minor's interest might be harmed by failure to notify a parent. You have a young girl who is scared to death because she is unmarried and is pregnant, she has an unwanted pregnancy and does not know what to do.

What we are saying here, by not giving the parent notice of that tragic fact, is that some counselor, some social worker, some person operating in a clinic that may or may not be a doctor—and in most cases is not a medical doctor, and in many cases does not have medical training—is better qualified to advise that young, scared girl than that girl's parents; that they hold that young woman's interest, who they never knew 5 minutes before they walked in the door, more precious than the biological parent holds that interest.

I know there are exceptions to the proposition that parents have their children's best interests at heart, more so than a stranger or more so than someone else. We may hear today on this floor of that exception. But this body should not legislate because of an exception. It should look at what generally is the case.

I would guess that every parent in this body, all 100 of us who have had the privilege of having children, would find it very difficult to stand here and say that someone that has known my daughter for 5 minutes, that operates a clinic, that provides counseling on pregnancy prevention, is more interested in my daughter's welfare than I am or than anyone else here. Is there a parent in this body that could legitimately say that the interest in their daughter's pregnancy is better understood and better counseled and better advised than what a parent can give?

I think that would be a rare, rare, exception. I think it would be a tragic mistake to deny parents the notification that their daughter is in serious trouble. I would want to know, and I think everybody would want to know.

It is interesting; about 2½ years ago, I received a notice, while I was sitting in committee, to call the public high school here in northern Virginia, where my daughter was a student, that she was trying to reach me. So I slipped out and went to the phone booth and called the school. They said, "Let me connect you with the health clinic." The nurse at the school health clinic answered the phone and said, "Your daughter wants to talk to you."

I envisioned all kinds of things, as any parent does. You always get those calls, and they say call your children, and right away your heart jumps three beats, and you wonder what in the world is going on.

My daughter got on the phone and said, "I have a terrible headache, and I have been trying to reach you for 1½ hours." For some reason—because the call did not get through, or I did not get the notice, or I was in a different committee hearing, or running back and forth for votes, and her mother happened to be out for that period of time—she was not able to reach either one of us. She said, "I have a terrible headache." I said, "Why do you not take an aspirin?" She said, "I would like to, but I do not have one with me." I said, "Well, ask the nurse for one." She said, "The nurse cannot give me one without your consent."

I asked to speak to the nurse, and she said, "Senator COATS, your daughter is here complaining of a headache. I asked her to lie down."

I said, "Could she not have an aspirin?"

She said, "Well, I cannot give her an aspirin without your consent."

So I gave the nurse my consent to give my daughter an aspirin for her headache.

I find it not only ironic but almost disingenuous that my daughter cannot get an aspirin for a headache without my consent, but that somehow it is OK to let her have an abortion without even notifying me that she is going to have an abortion.

My notification amendment does not prevent anyone from having an abortion. No young girl intent on having a legal abortion in the United States is prevented from having an abortion by adoption of the Coats amendment.

All it does is give notification to one parent that their daughter has requested a medical procedure which may threaten her life. In fact, we are not asking them to put that language in. All they have to do is send a written notice saying your daughter has requested an abortion, but in a medical procedure that may threaten her life, that may damage her health for a lifetime, that puts her at risk physically, that may inflict psychological damage—it has already been inflicted, but it may exacerbate that damage, that may have far-reaching psychological implications.

You cannot even advise one parent to give that parent the opportunity to come by the daughter's side and say, "Let us think this through. Let us talk this out. I know you are scared. What has happened here? Let us look at the available options."

What the second-degree amendment offered by the majority leader does is say we cannot trust the parents to have the best interest of their children in mind. We cannot take the chance that there might be one parent that will react in a way in which it will cause this young girl to do something that perhaps she should not do. And because we cannot take one chance that there might be one exception, therefore, we are going to deny every parent in this country the opportunity to be notified if their child is in serious trouble.

Is there a parent in this body that would not want to know if their kids are sick or hurt or in an accident or about to undergo a medical procedure, or facing the trauma of an unwanted pregnancy? I would want to know. I would think every parent would want to know.

The question will come up, what about the amendment offered by the majority leader? After all, is that not reasonable? In fact, is it not even more restrictive than the amendment of the Senator from Indiana, because, after all, it requires written consent?

I had trouble following the majority leader's argument who in one sentence indicated that this was a desirable amendment because it required consent but in another said that consent might put the minor child at risk.

But, nevertheless, let me examine that amendment and point out some things.

First of all, the amendment while it appears to be a parental consent or parental notification amendment depending in one sense, it is both; you need to know that it applies to girls 15 and under, not 18 and under. I am not sure.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. COATS. I am happy to yield.

Mr. KENNEDY. I think the majority leader's amendment has been altered to change that.

Mr. COATS. I appreciate the Senator from Massachusetts telling me that. I assume it has been altered and changed to 18?

Mr. KENNEDY. Yes.

Mr. COATS. All right.

The majority leader's amendment includes a number of exceptions which, when taken together, nullifies the consent or nullifies the notification requirements, and let me point those out.

In the first instance, it says that the consent must be provided by the minor herself. And if I can get the amendment in front of me here, I want to make sure I do not misread it. I had the original amendment. Apparently it has been changed.

It says that "No entity that receives a grant under this section shall provide an abortion for an unemancipated minor under the age of 18," as has been changed in this amendment, "unless the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;"

I take it that the adult family member would be anyone 18 or over. Therefore, if the minor were 13, pregnant, and wanted an abortion, consent by the minor and her 18-year-old sister would be sufficient, or a 19-year-old brother.

Second, it says that "The attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion," which paragraphs quotes 48-hour notice, and "the minor has received the information and counseling required under paragraph (2).

It goes on to say, however, and these restrictions in a sense just obviate the whole initial premise of the requirement of consent and notification because it goes on to say that the attending physician has the opportunity to override that requirement for consent. By allowing the attending physician, which is in most instances here is the person who will be providing the abortion, to OK an abortion without parental involvement, we are putting the abortion provider in the position of really having everything to gain and nothing to lose by certifying the consent.

The exceptions go on to say that if "the attending physician has determined that the minor is mature enough and competent to provide consent"—and I would question whether an unemancipated minor is in a position to have the full range of judgment necessary without parental advice to be competent enough or mature enough to provide that consent—or it says if "the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor," then these notice requirements and consent requirements do not have to be provided.

In other words, the person that is going to provide the abortion is able to sit down with the minor requesting the abortion and say, you know, I need your consent and I need the consent of one parent or family member, and it is sufficient if your older sister can provide this consent. That is all I need. Or if you do not want to do that, all I really need is to look at you and conclude in this initial interview—I have never known you before—but in this initial interview all I need to do is conclude you are pretty mature for your age, I think you are competent to make this decision without your parents knowing about it, or all you really have to do is tell me that by notifying or getting consent from your parent it is going to put you at risk of physical or emotional abuse or even if you do not want to do that, all you have to do, as the person providing the abortion, is to conclude that it is really not in your best interest to tell your parents.

I would suggest to my colleagues that that pretty much wipes out the idea that what has been propounded by the majority leader is an adequate substitute for parental notification or parental consent.

I think we all know exactly what is going to happen. There is not going to be any parental notification or is not going to be any parental consent, because the person providing the abortion is going to say you want an abortion. There are a couple things we have to do here. You have a sister that can give consent, a brother that can give consent. That will take care of it. Or all you have to do is tell me that if I notify your parents or seek their consent that it might cause some emotional problems between you and your parents. Or if you do not want to do that, if I conclude that it is in your best interest not to tell your parents, all I have to do is check this box and we will go ahead with the abortion.

I wish to read into the RECORD a statement which I have just received from the Office of General Counsel of the Department of Health and Human Services.

It says:

> The Office of the General Counsel of the U.S. Department of H.H.S. has reviewed subsection (d)(I)(C)(iii) of the proposed Mitchell Amendment concerning parental notification to S. 323 (bottom of page 2). It is the Office of the General Counsel view that the amendment as a practical matter eliminates any requirement that a physician notify the parents of a minor contemplating an abortion.

The requirement that a minor be "mature enough and competent to provide consent" is effectively already a precondition to an abortion in all, or almost all, States. A doctor who per-

forms an abortion without having made such a determination would almost certainly be civilly, if not criminally, liable under the laws of most, if not all, States. Accordingly, it is our view that physicians performing abortions on minors inevitably would certify as to the maturity and competence of the patients on a routine basis.

In the unlikely event that a physician felt a need for an alternative basis for failing to provide notification, the standardless delegation to the physician to determine whether notification would be "in the best interest of the minor" would also provide a basis for routinely failing to engage in notification. Delegation of determinations concerning consent to the physician seeking consent also raises substantial due process issues.

Mr. President, with all due respect to the majority leader, the second-degree amendment that he has offered is not a substitute for parental notification or consent. It is a six-page procedure which gives the person providing the abortion a reason not to provide parental notification or consent. It is a procedure designed to prevent notification of a parent that their child is about to undergo a very serious medical procedure that can have profound medical and psychological consequences for that minor. It is a procedure whereby a vote for parental notification on the amendment that I have offered can either be avoided or explained away without really dealing with the question of parental notification or parental consent.

Now, I understand that the legislation which we are dealing with here today in some points of view does not directly deal with the issue of abortion. But it does, and we all know that it does. We all know that abortions are provided by clinics that are under the umbrella of title X, that efforts are made to separate Federal funds from non-Federal funds in terms of provisions for those abortions. But we all know that this fight is over whether or not taxpayer dollars should go to entities that are engaged in postpregnancy counseling which include pregnancy termination through abortion.

We are at some future point going to, I hope, have a very protected and serious debate in this body and in this Nation about life, the meaning of life, protection of life, the role of the State in protecting life, when life begins. That debate is necessary. I think it probably will be precipitated by Supreme Court decisions in the future.

I wish this body would take up that issue and debate it now because it is as serious an issue as this Nation has ever faced. It is as fundamental an issue as this Nation has ever faced.

We have been tinkering on the edges of how to use taxpayer funds and what notifications and regulations and rules will affect a certain segment of our society without really getting to the fundamental issue.

But I would suggest that this parental notification amendment that I have offered is not irrelevant to this process; that it is very critical to provide a parent the opportunity to know that his or her child is in serious trouble, that they need the counsel and advice of a parent.

I would be outraged if I found out that my child was in serious trouble but some social worker, some person I had never heard of and had never known my child, had made a determination that it was in her best interest that she undergo a serious medical procedure without me knowing about it, without me having the right as a parent to counsel that child, question that child, to direct that child, to help that child in whatever ultimate decision was finally made.

Let me summarize by saying the Coats amendment does not prevent any minor from having an abortion. The Coats amendment does not require any parent to give consent to an abortion.

The Coats amendment provides an exception for any minor that reports that they are the victim of incest, they are a victim of child abuse, or they are the victim of child neglect. The Coats amendment provides an exception for any medical emergency where a 48-hour notice would put that child at risk. And the Coats amendment only requires notification for one parent to avoid the problem of notifying both parents.

I think it is a reasonable amendment. I do not understand what the basis for objecting to this amendment is. I do not understand why this is a problem.

There may be a rare exception out there where a parent does not care about the child, where a parent concludes that the social worker who has known the child for 3 minutes or 5 minutes or 10 minutes has that child's interests closer to their heart than a parent does. There may be that exception somewhere. We may hear about it on this floor. I do not think anyone in this body can stand and say that is the case for them. And I think very, very few people in this country, very very few parents would ever stand and say, "Don't tell me that some stranger has the interests of my child closer to their heart than I do as a parent."

Mr. WELLSTONE. Mr. President, I rise to speak in opposition to the Coats amendment.

In an ideal world, a young woman would turn to her parents in a time of need, in a time of distress, in a time of crisis.

In an ideal world, a parent or an adult would be involved in the lives, and in the life decisions, of their children.

In an ideal world, we would not be in this Chamber debating this amendment. Because in an ideal world, in an ideal family, a young woman would consult with her parents on a decision of this magnitude.

Mr. President, this is not an ideal world. And those of us fortunate enough to be in this Chamber tonight—we privileged few, we privileged males, in vast majority—may find it hard to put ourselves in the real world of young, poor women in crisis.

The Coats amendment puts far too onerous a burden on these young women. Indeed, this amendment puts an impossible burden on young women.

And the burden falls most heavily, most cruelly, on the most vulnerable women.

In the real world, many young women who come to title X clinics for counseling come from abusive families and from families in crisis.

In the real world, many young women who come to title X clinics for counseling risk physical or emotional abuse if a parent is notified of her pregnancy.

In the real world, many young women would effectively lose the option of abortion under the Coats amendment.

Mr. President, we need a real world solution to an all too real problem.

Mr. COATS. Mr. President, I guess we are not under a time agreement. I yield the floor.

AMENDMENT NO. 757, AS MODIFIED

Mr. MITCHELL. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the first word and insert the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(1) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(c) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(c) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such from to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interest of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

AMENDMENT NO. 756

Mr. PACKWOOD. Mr. President, will the Senator from Indiana yield for a question?

Mr. COATS. Yes, Mr. President. If I have the floor, I will be happy to yield.

Mr. PACKWOOD. The Senator does not have the floor. I have the floor. But I was wondering if he would respond to me even though I have the floor.

The Senator did not touch on section 4 of his amendment. Do I take it that is a States-rights provision? Basically, if the State has acted, then the Federal law would not take effect?

Mr. COATS. That is correct. Section 4 says that if a State or local law requires one or both parents to provide the notification for consent, that this does not preempt that. And it also indicates the judicial bypass procedures the State has adopted or uses.

Mr. PACKWOOD. As I read it, as a matter of fact, it does not matter whether the State has the bypass or not. If they have acted, they are grandfathered.

Mr. COATS. That is correct.

Mr. PACKWOOD. What about if the State has acted in the negative and they have deliberately chosen to not have a parental notification law?

Mr. COATS. Well, in that instance, under this amendment, that State or that entity providing the abortion would then be required to provide the notification.

Mr. PACKWOOD. I thank the Senator from Indiana very much.

I would oppose his amendment in any event, but he puts my State in a terrible bind. We had on the ballot last year a parental notification measure and we voted it down.

We voted it down. We made a decision. We did not want it. My State has made a decision, probably made a tougher decision than most States have had in the legislature. We had it on the ballot. We had a ding-dong, knock-down, drag-out battle on the subject, and voted it down.

Now, along comes the Federal Government and says: The heck with Oregon; we do not care what your people want. We are going to cram this down your throat because you did not decide to have it. Had we decided to have it, then we are grandfathered. But because we decided in the greatest exercise of democracy we have in this country, public voting, that we did not want to have it, we are not going to be grandfathered. It is an anomalous situation.

But I will go further than that, because I do not want to mislead the Senator from Indiana. I would oppose his amendment in any event. There is no other Federal law that requires parental consent for any other medical procedure, with one exception. You cannot be sterilized in a Federal facility unless you are 21. I guess that is an age requirement of some kind.

Under Medicaid, we allow whatever the States may have for notification or no notification in terms of medical procedures. In some States it is 15; in some States it is 13; in some States it is 18; in some States, a parent has to be notified for some things and not for others. And we would not think of interfering in that. We say the State knows best.

Then, irony of ironies, however, when we come to this, and this is where I find conservatism and liberalism has gone topsy-turvy on its head, the normal conservative position would be that Government ought to stay out of our lives, and the normal prochoice position ought to be a conservative position, which ought to be that Government would not bother you.

But second, a normal position for conservatives would be: We will defer to States rights, and where the State has made a decision, we will say, fine; the State knows better than the Federal Government what your people want. We will defer to that decision.

Here we have an amendment that, first, stands normal Federal intervention on its head and reverses normal liberal-conservative positions, and says the Federal Government is going to intervene, and not only that, we are going to intervene in only one way. You talk about a car that has no reverse gear, this is it.

If your State wants to pass a parental notification law, you will be grandfathered and exempt from this Federal law. But if your State wants to vote on it and vote it down, tough luck; you will get this kind of parental notification law. What kind of equity is that?

I find the amendment of the Senator from Maine and his fellow Senator, Senator COHEN, and Senator KASSEBAUM, a very adequate amendment. I would, frankly, prefer we had no parental notification in this at all. I voted against parental notification twice in the last Congress. But if we have to have some kind of parental notification amendment, I would much prefer that of the Senator from Maine and his cosponsors to that of the Senator from Indiana, which singles out my State, that has consciously voted on this.

I will emphasize again, this was not a low-level, little-noticed battle because we had on the ballot last year not only parental notification, we had legalized abortion on the ballot. Straight out, no abortions except for the life of the woman.

So, if you think this was not a discussed issue in Oregon in November of 1990, you are wrong.

But because we chose to exercise our State's sovereign right to say "no", we are now going to be overruled. So I would encourage everybody to vote against the amendment of the Senator from Indiana, and to vote initially for the amendment of the Senator from Maine and his cosponsors.

But frankly, I wish we did not have any amendment at all on this and we just left it to the States, as we do in every other medical procedure. We do not compel the States to have parental notification or parental consent or parental anything else. We say if you are a State and you think a minor, at age 15, is capable of making a decision at 15, fine. If another says 18, fine. If another says 19, fine. And States vary. But not when it comes to this subject.

In this case, we are going to say: We do not care what the State's wisedom is; we do not care what the States rights are. In this particular area, and only this particular area, we are going to cram down the throats of the States something they may want or may not want. But we do not care.

I do not think that is good Federal policy. I hope we would, therefore, defeat the amendment of the Senator from Indiana.

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

Mr. HATCH. Mr. President, if that notification had passed then Utah would be very happy, because we have very tough laws with regard to parental consent with regard to family planning issues, and I think a lot of other States might be happy, too.

But the fact of the matter is, I think the true position is not a conservative or liberal position. The true position is, are we going to be for what the family needs are or are we going to be for what the Government needs are? And we might push a little bit further: Does the Government have a need to tell a family that they should not have any understanding of what is happening to their child, to their young daughter? Is that what we are doing here?

If we do not adopt an amendment similar to or the same as the Coats amendment, we are saying to parents, you will never be notified whenever your daughter needs you the most. I have three daughters and seven granddaughters. I want my colleagues to know that I would like to know, not because I want to go and give them a rough time about it; I want to know so I can go counsel them and help them through their difficulties.

The question is, are we going to be concerned about parents? Or are we concerned about Government making these decisions? Mr. President, the decision to abort a fetus is one I believe nobody takes lightly, not even the most proabortion Senator in the Senate. It is not an easy task to consider all the far-reaching implications of abortion. One must, therefore, consider whether a minor is capable of reaching an informed decision on her own.

While undoubtedly there is a whole wide range of capability among minors, recent studies suggest that most minors are less capable than adults of making a reasoned decision regarding abortion.

Good decisionmaking involves, first, seeking an understanding of multiple perspectives; second, considering the potential costs and benefits of all reasonable alternatives; third, identifying future solutions and goals; fourth, considering the consequences—these are parental concerns, too—and fifth, not procrastinating.

Using these criteria, evidence shows that adults—and older adolescents, who are in effect adults—have the wisdom of years to apply toward these difficult decisions.

Mr. President, I suggest that requiring parental notification when a minor seeks an abortion helps the pregnant minor in reaching a decision that is best for her when all alternatives and consequences have been considered.

Let us consider some basic facts about parental consent laws and minors' abortions. Nearly half of all adolescent girls age 17 and under acknowledge that neither parent is informed of their decision to abort their pregnancy—more than half.

While recent research data on this subject is scant, the 1990 Alan Guttmacher Institute report, "Abortion and Women's Health; a Turning Point for America," which relied on a 1980 study based on self-reporting—which if anything would tend to overestimate parental involvement—said that teenagers account for between one-third and one-half of all abortions done in the United States. Roughly half of them are among girls age 17 and under. Thus, while no firm figures are available, it seems clear that tens of thousands of minors obtain abortions done in the United States, roughly half of them young girls age 17 and under.

Despite substantial disagreement among Americans over certain aspects of the abortion issue, polling data have regularly shown that the American people support parental notice and/or consent laws for abortion by overwhelming margins. This consistent response has held up over time despite all the variations in the way the question has been phrased.

Moreover, the level of public support could be expected to run even higher if the polls distinguished parents, the interests of whose families are directly at stake, from nonparents. Clearly, the parental position draws considerable support from individuals who are not currently parenting or who may never parent.

As Senator LAUTENBERG and others have pointed out, however, despite the decline in the U.S. birth rate and the tendency of Americans of both sexes to marry later and divorce sooner, over 90 percent of all American women still marry at some point in their lives; 92.5 percent of all women age 40 to 49 in 1988 were married, and roughly six of every seven women will have children.

It could be hypothesized that the common experience of parenthood or its future likelihood apparently entails the enduring intuition of parent prerogatives.

The public opinion data in this regard are really impressive. I am quoting the New York Times CBS poll in June 1990. That poll said that 76 percent favor notification of both parents when the child is under 18. Seventy-six percent of Americans favor the notificaton of both parents when the child is under 18. An additional 8 percent would favor notifying at least one parent. That is according to the Gallup 1990 Poll done for Americans United for Life.

How much involvement should parents have? Regarding the decision of a minor, under 18 years old, whether to have an abortion or not—69.4 percent agree that parents should have a great deal or a moderate amount of say; 13.4 percent say they should have a little. Only 14 percent, one in seven, say none at all. That is according to the Wirthlin Group Poll taken in November 1989. Eighty-four percent of those polled believe that a woman under the age of 18 should either have the consent of a parent or have to notify her parents prior to having an abortion.

Americans favor parental consent for abortion by a 69 percent to 26 percent margin nationally according to the Command Research October 1989 Poll. So, Americans favor parental consent for abortion by 69 to 23 percent, over 65 percent for every region of the country, 63 percent in the Northeast.

In a New York Times poll in 1989, 83 percent of our people support mandatory notification of at least one parent. That is the Ohio poll at the University of Cincinnati, September 1989. In that poll, they asked: Do you favor a State law requiring the consent of at least one parent before a girl under 18 years of age could have an abortion? And 75.7 percent said yes, only 20.3 percent said no. Those who did not know were 4 percent.

Two-thirds, 67 percent of the public favors notification of parents when a woman under 18 seeks an abortion, 29 percent oppose according to a Gallup Poll, 4 percent are undecided.

What are we talking about? The amendment of the majority leader,

which has amended the Coats amendment, does not require notification or consent of either parent or guardian before performing an abortion on a girl age 18 or under. Even though the distinguished Senator from Maine and Senator KENNEDY, from Massachusetts, appear to require parental involvement in every instance, in every instance the abortionist himself or herself can waive the notification. In every instance, if the attending physician, has determined that, first, the minor is mature enough and competent enough to provide consent, or, second, the involvement of the parent or guardian of the minor is otherwise not in the best interest of the minor, then parental notification can be waived.

I have to tell you, there will never be a case where parents will be involved if this amendment is agreed to. Never. We have dealt with these problems for years. We have dealt with the abortionists for years, and I have to tell you the people who perform abortions are just not going to tell the parents. They are going to find how to apply those two loopholes in every case. There may be a modest exception here and there, but I doubt it. I have not seen it, and I do not think we will see it. That amendment's reference to parental involvement is cosmetic. In every case, the abortionist can give the teenage girl an abortion in secret.

Recognize this amendment for what it is. It is an abortionist's consent bill; that is what it is. If we vote for the amendment of the distinguished majority leader and the Senator from Massachusetts, the Senator from Kansas, the Senator from Maine, then we are voting for an abortionist consent bill.

The Coats amendment provides real notification of parents of teenage girls who are to undergo an abortion. If you are for the right of parents to be notified before a daughter undergoes abortion, a decision which involves lifelong implications, I think we have to reject this second degree amendment.

Remember how many abortions, almost a third, are done to young girls 17 years of age or younger without any parental consent. As a matter of fact, 80 percent of those who come through Planned Parenthood facilities are only in contact with someone less than a licensed physician. Only 20 percent have a physician advising them, and in most of those cases it is an abortionist physician. I hate to say this, but I think you have to have a certain amount of toughness and hardness to make your living solely from abortion. I am sure there have to be exceptions, and I will certainly allow for that, but I have to say it would be very tough, to do that as the only way to make a living.

But I have taken some time to look up just what is involved medically. Just take the Merck Manual, which is a synthesis. Just a summary of what is involved in an induced abortion. This 17-year-old or younger girl is supposed to figure all this out herself, supposed to be mature enough to take care of this for herself. The Merck Manual says:

INDUCED ABORTION

Throughout history, women have used abortion to terminate unwanted pregnancies. Its legal status worldwide varies from complete prohibition to elective procedures on request.

In the United States, it is elective procedures on request.

About two-thirds of the women in the world have legal abortion available; about one-twelfth of all women are in countries with strictly enforced abortion prohibitions. In the United States, abortion is permitted on request.* * *

It goes on and on. It talks about various abortions. It says:

The number of reported abortions in the USA has progressively increased, especially since 1974, when the laws were liberalized. In 1963, the rate of abortions was 0.13/1000 women in childbearing years (15 to 44); in 1980, the rate was 29.3/1000; therefore, ≅ 3% of women aged 15 to 44 have abortions in a year. The ratio of abortions to live births increased more markedly, from 13/1000 in 1963 to 362/1000 in 1980. Abortion is one of the most common surgical procedures in the USA; > 1.5 million abortions were reported in 1980. About 30% were done on women under age 20; 35% were 20 to 24, and the remaining 35% were 25 or older; 25% of the women were married. In 1980, > 90% of abortions were in the first trimester (12 wk or less); with > 50% of these at 8 wk of less. About 96% were performed by curettage, 2.2% by saline instillation, 0.5% by prostaglandin instillation, and < 1.5% by other methods, including major surgical procedures.

Abortion methods currently used are (1) instrumental evacuation through the vagina; (2) medical induction, with stimulation of uterine contractions; and (3) uterine surgery (hysterotomy or hysterectomy). The procedure varies with the length of gestation. "Weeks of gestation" are calculated from the last menstrual period with the assumption that ovulation occurred at about day 14 of the cycle. Instrumental evacuation is used in 96% of abortions. In pregnancies < 12 wk, curettage is virtually the only procedure used. Suction curettage at 4 to 6 wk of gestation (sometimes called "menstrual extraction," a term from earlier days when sensitive early pregnancy tests were not readily available), requires little or no dilatation of the cervix. The curet most commonly used is a small, flexible cannula (4, 5, or 6 mm in diameter); rigid, 6-mm plastic curets are also used, as well as metal endometrial aspiration biopsy curets. The cannula, attached to a vacuum source (usually a machine suction pump, but hand pumps and occasionally vacuum syringes are also used) is inserted through the cervix. The uterine cavity is gently and thoroughly curetted. Failure to terminate the pregnancy occurs more frequently in these early weeks than later.

This is what this little 14-year-old girl, for example, is supposed to understand. It goes on and into much more detail. It goes on for pages of what a doctor has to understand and how difficult this particular process really is.

Mr. President, I do not want to take too much more time. I know our colleagues are tired. I know we are all tired. We are all tired of this issue.

It is the toughest issue there is in the Senate and House of Representatives, but all too often we treat it somewhat in disdain. We treat it as though we can continue to go on without telling parents about what is happening to their children.

I hate to say this, but I really believe that there is no question that most Senators in this body believe that the parents out there really are concerned about their kids. They are not going to beat up the daughter because she has made a mistake. There are some who will, there is no question.

There are some who are not worthy of being called parents. But the vast majority of our parents in this society are concerned about their kids. They want to be part of their lives. They want to be part of some of these very monumental and serious decisions.

Most parents would take that daughter in their arms and hug her, care for her, and help her. Most parents I think would stand by her and be with her. They would not want her to have an abortion. Some maybe would. At least she would get the best possible advice that those particular parents could offer.

Now, Senator COATS is offering an amendment to require organizations who receive title X funds to notify one parent prior to performing an abortion on a girl age 17 or younger. That seems reasonable to anybody. He even allows a couple of exceptions where the one parent does not have to be notified. One, in the case of medical emergency. That makes sense. And two, in cases in which the girl is a victim of or at risk of sexual abuse or child abuse. That makes sense. Or three, in any State that already has in effect a law requiring parental notice or parental consent for abortion. Those three exceptions I think make sense.

The substitute of the majority leader and those who are cosponsors is made to appear to be a parental notification amendment that applies to girls age 18 and younger. However, the substitute is not a parental consent amendment but an abortionist consent amendment.

The amendment does not require parental involvement in any case. In every case the amendment provides the following alternatives to the notification or consent of a parent. If the attending physician has determined that, one, the minor is mature enough and competent enough to provide consent—and, as I mentioned, I think you will find that in almost every case—or two, the involvement of the parent or guardian of the minor is otherwise not in the best interest of the minor.

Come on, we have abortionist doctors giving advice. Tell me they are not going to always find that one or two of those exceptions will always apply.

In other words, the amendment confers on the abortionist doctor himself

or herself complete, unreviewable discretion to waive parental consent in every case. The amendment gives the abortionist absolutely untrammeled authority to perform an abortion in secret any time he alone believes that it is in the minor's "best interest."

The other provisions of the amendment which may appear at first blush to require parental notification or parental consent in some case are in fact consumed by the open-ended alternatives provided in paragraph 8 of the amendment. It is never even necessary for an abortionist to determine that a minor may be subject to physical or emotional abuse in order to waive parental involvement. The only requirement is that the abortionist believes it is in the best interest of the girl age 18 or under to receive a secret abortion.

Come on, what are we doing? The real issue tonight is the role of the family versus the role of the Government in making decisions about their children. I voted for the family. I am going to vote for Senator COATS' amendment. I hope everybody else will do so as well.

In all honesty, it is not a conservative or liberal issue; it is not a States rights issue. It is a family issue. And it is an important family issue. It is one that we ought to pass. It is one that makes sense. It is one that I think will help families and children.

Are we going to give parents the opportunity to be involved with their children, their problems, and their crises in life? Or, is it just a governmental role to take over these important responsibilities from the parent. I just do not think Government has that role except in those situations that are covered by the Coats amendment.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield to the majority leader.

Mr. MITCHELL. I have had discussions with the distinguished Senator from Indiana, the distinguished Senator from Massachusetts, and others, and I will now propound a unanimous-consent agreement that I hope will permit us to vote on this matter shortly, and the purpose of which is to provide a vote not only on the pending amendment, which I offered, but to provide Senator COATS with a vote on his amendment, which he wishes to have. It will provide that I will withdraw my amendments, that Senator COATS' amendment would then be laid aside, that I will then resubmit my amendment as an amendment in the first degree, and that there will be 6 minutes of debate on both amendments, following which there will be a vote on my amendment and a vote on the Coats amendment. That is the purpose of this, which I am about to propound and I now propound.

Mr. President, I ask unanimous consent that I be permitted to withdraw my amendment, that the Coats amendment be laid aside, and that I then be permitted to resubmit my amendment as an amendment in the first degree; that there then be 6 minutes for debate remaining on the Coats amendment No. 756 and the Mitchell and others amendment equally divided and controlled in the usual form; that no amendments to the amendments be in order, or any language which may be stricken; that no motion to recommit be in order during the pendency of these amendments; that when the time is used or yielded back, the Senate proceed to vote without intervening action or debate on the Mitchell amendment; that upon the disposition of the Mitchell amendment, the Senate without any intervening action or debate proceed to vote on the Coats amendment No. 756.

Mr. COATS. Mr. President, reserving the right to object, and I will not object, I say to the majority leader as someone who has urged him in the interest of family to expedite procedures around here, I appreciate the majority leader's offer to do just that. I am more than willing to accept the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The pending amendment is withdrawn.

AMENDMENT NO. 758 TO AMENDMENT NO. 753

(Purpose: To require entities receiving grants under title X of the Public Health Service Act to provide for parental notice or consent in the case of minor patients who request an abortion)

Mr. MITCHELL. Mr. President, I resubmit my amendment as an amendment in the first degree.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM, proposes an amendment numbered 758 to amendment No. 753.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the Chafee amendment add the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 cf the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagaph (A); and

"(ii) sets forth the reason, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interests of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

Mr. MITCHELL. In accordance with the agreement, I ask unanimous consent that the Coats amendment be laid aside and that the Senate proceed to debate and vote on the Mitchell and then the Coats amendment as stated in the agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the 3 minutes which under the agreement are under the control of proponents of my amendment to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I appreciate the majority leader yielding back to me 3 minutes and I will be very brief. I would like to offer a few comments as a mother and a grandmother, because this is a subject with which I have great compassion and great sensitivity. Not to get into necessarily the question of abortion but on parental notification, I believe that Senator COATS has drafted a very thoughtful amendment.

I have cosponsored the Mitchell amendment but there is much to recommend in the language that Senator COATS has put forward. I know he has done it trying to meet the concerns of some, like myself, who have feared that drawing an amendment such as this too narrowly, there could be some tragic consequences.

We would all like to think that a family situation is such that a young girl would feel comfortable notifying parents that indeed she wished to have an abortion. There are unfortunately, Mr. President, dysfunctional families in which this would be an extremely difficult situation and potentially could cause real violence.

I realize that in the Coats amendment that it waives this requirement in the cases of incest, child abuse, or child neglect but one might not be aware that actually abuse exists at that given time. I think that sometimes these things are not known.

One of the reasons I am a cosponsor of the Mitchell amendment is that I think we should err on the side of making sure there is protection for that one exception where perhaps there could be a tragedy ensued by the language that we have tried to construct here. I think there must be the possibility to have judicial bypass. This is one of the reasons I am a cosponsor, feel strongly about it, and I equally feel strongly that it is important to involve the family where that is possible. But, in this instance, I believe we have to allow for the ability to adjust to those cases where it would not be possible.

I yield what time I might have left.

The PRESIDING OFFICER. Who yields time?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I yield myself 3 minutes remaining to me under the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator may proceed.

Mr. COATS. Mr. President, let me just in summary here remind our colleagues of what we are doing. We have two alternatives before us: the Coats amendment provides a requirement that if an entity under title X receives Federal funds and performs abortions, it must provide notice to one parent. The notification requirement has some exceptions: if it is a medical emergency; if incest, child abuse or child neglect is involved, notice need not be given.

For those who feel it is a minor's right to obtain a legal abortion in this country, this does not prevent anyone from receiving that abortion. What it does do is give one of the parents of that child notice that their daughter is in a very difficult situation and allows that parent then in whatever way they deem appropriate to come to the aid of that child. Make no mistake about it.

The first amendment we will be voting on, offered by the distinguished majority leader, provides so many exceptions to the notice and consent requirement that it totally obviates that requirement. If you want to give one parent notice that your child has requested an abortion, you need to vote for the Coats amendment. A vote for the first amendment we will be voting on will not provide that notification in most instances because of the many exceptions that are involved.

If you feel it is appropriate to be notified as a parent that your child is in serious, serious trouble, vote for the Coats amendment which will be the second vote before us.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The leader has 30 seconds remaining.

Mr. MITCHELL. Mr. President, I will just conclude the debate by saying that however well-intentioned the Coats amendment, it simply does not take into account the reality of the dysfunctional families, families where incest has occurred, families where physical and sexual abuse occurs, families where parents are absent. We deplore those circumstances. We wish they did not exist. But they do.

The choice between us is between an amendment that deals with the reality which confronts Americans today or with some idealized situation which is wholly unrelated to the reality and really represents an effort to sink this bill. That is the choice we have.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. COATS. Mr. President, I ask for the yeas and nays on the Coats amendment that immediately follows if that is the correct procedure at this point.

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays requested by the Senator from Maine?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays requested by the Senator from Indiana?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Indiana has 1 minute remaining.

Mr. COATS. Mr. President, I will use just a portion of that time in response to the majority leader's closing to indicate to my colleagues that in the case of incest, in the case of child abuse, in the case of child neglect, however that is broadly defined, notice need not be given.

So the statement that the Coats amendment does not deal with the reality of child abuse or child neglect, medical emergency is not the fact under the Coats amendment. We do provide for an exception for that.

Mr. President, I yield the remainder of my time.

Mr. CRANSTON. Mr. President, I want to make my position clear on the issue of passing any Federal legislation aimed at limiting access of pregnant minors to safe, legal abortions.

I believe that these proposals, although often well-intended, are not good public policy. They are not likely to result in more effective communication between teenagers and their parents, but rather they are likely to drive desperate teenagers into the back alleys for illegal abortions. Most teenagers seeking abortions already have the consent and support of their parents. The young women who do not are usually those in the most dire straits, victims of abuse or neglect or incest.

Having said that, I nonetheless intend to vote for the Mitchell-Cohen substitute because it provides a number of reasonable options. Equally important, I recognize that last year the Senate refused to table an amendment virtually identical to the amendment offered by the Senator from Indiana. Enactment of the Coats amendment, which provides no judicial or other bypass for the teenager who has good reasons for not notifying her parents would be a disaster. The Coats amendment not only prohibits title X projects from providing abortion services to minors in most cases without notification to a parent, it forbids an entity which receives title X funds from making its facilities available for abortion services for all minors, not just those served in the title X project. In other words, a university hospital which runs a title X clinic could not make its operating rooms available for such minors.

The Mitchell-Cohen amendment combines the best elements of statutes recently enacted in Maine and Maryland.

It requires 48 hours prior notification to one parent or guardian of an unemancipated minor under the age of 18 unless the minor has either obtained consent from a parent or guardian or an adult family member such as a grandparent, aunt or uncle, or older sibling, received comprehensive counseling on the options available and the advisability of consulting with a parent and been determined by the attending physician to be mature enough to make the decision independently or that the abortion is in her best interest, or be granted an order allowing her to consent to the abortion independently.

The ability to get consent from another adult family member is derived from the Maine statute. South Carolina also permits consent by a grandparent. The so-called physician bypass provision, which allows a minor to have an abortion without the consent or notification of a parent if the physician determines the minor, after counseling, is mature enough to make the decision independently, or the abortion is in her best interest, is taken from the Maryland statute. These two provisions provide the flexibility that is essential to ensure that no minor is denied access to a safe, legal abortion or forced to walk through an insurmountable bureaucratic maze.

The amendment also provides that it will not take effect in any State whose law already provides for the conditions under which a minor could receive an abortion or where the provisions would conflict with the provisions of the State constitution. The latter provision would be directly applicable to my State where the State constitution has a privacy provision broader than the Federal constitution. Parental consent legislation has been struck down in California as violating the State constitution, *American Academy of Pediatrics* v. *Van de Kamp*, 214 Cal App. 3d 831 (1989). The right of a State not to impose additional conditions upon minor's access to abortion or to devise its own scheme, such as the mandatory counseling utilized in Connecticut and Wisconsin is thus protected in the Mitchell-Cohen amendment.

The amendment also provides that it will not take effect in any State which fails to enact a judicial bypass procedure which complies with the requirements laid down by the Supreme Court in *Bellotti* v. *Baird*, 443 U.S. 622 (1979). That decision and subsequent decisions have made it clear that a state may not require parental consent or notification in every instance, whether or not in the pregnant minor's best interest, without affording her an opportunity to receive an independent judicial determination that she is mature enough to consent or that an abortion would be in her best interest.

For these reasons, Mr. President, although I would prefer that Congress not enact Federal legislation in this complex and complicated area, I intend to vote for the Mitchell-Cohen substitute and against the Coats amendment.

Mr. ADAMS. Mr. President, I am a strong supporter of a woman's right to choose to have an abortion. That right doesn't begin when a woman is 18 years old; it doesn't begin when she's 19 years old. That right begins when a woman has an unintended pregnancy.

Any requirement that a pregnant minor obtain a parent's consent or notification for an abortion is riddled with problems. What about incest? What about the girl whose mother's boyfriend is the father of her baby? What about date rape that results in pregnancy? These are real situations, that we know happen. Should these young women have to ask a parent to consent to an unintended pregnancy? That is a ridiculous requirement.

It is just as ludicrous to assume that by requiring a parent's consent, or parental notification, that we are promoting family communication. This is not an issue many families talk about. That's part of the reason unintended teenage pregnancy rates are so high. Talking to a parent about sex and contraception after conception is not better family communication.

I have always opposed parental notification. It's unrealistic, it's unworkable, and it is just plain wrong. But a parental notification statute that does not provide a young woman any alternative is unconscionable—not to mention unconstitutional. The Supreme Court in Bellotti said that a pregnant minor must have the option of going to the court to obtain an abortion. The Mitchell amendment at least provides judicial bypass. The best situation would be a variety of options for minors seeking abortions that are in their best interests.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment (No. 758) offered by the Senator from Maine, Mr. MITCHELL.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—54

Adams	Gore	Moynihan
Akaka	Graham	Packwood
Baucus	Harkin	Pell
Bentsen	Hollings	Riegle
Biden	Inouye	Robb
Bingaman	Jeffords	Rockefeller
Bradley	Kassebaum	Sanford
Bryan	Kennedy	Sarbanes
Bumpers	Kerrey	Sasser
Burdick	Kerry	Shelby
Byrd	Kohl	Simon
Chafee	Lautenberg	Simpson
Cohen	Leahy	Specter
Cranston	Levin	Stevens
Daschle	Lieberman	Warner
Dodd	Metzenbaum	Wellstone
Fowler	Mikulski	Wirth
Glenn	Mitchell	Wofford

NAYS—45

Bond	Durenberger	Mack
Boren	Exon	McCain
Breaux	Ford	McConnell
Brown	Garn	Murkowski
Burns	Gorton	Nickles
Coats	Gramm	Nunn
Cochran	Grassley	Pressler
Conrad	Hatch	Reid
Craig	Hatfield	Roth
D'Amato	Heflin	Rudman
Danforth	Helms	Seymour
DeConcini	Johnston	Smith
Dixon	Kasten	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop

NOT VOTING—1

Pryor

So, the amendment (No. 758) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 756

Mr. KENNEDY. Mr. President, I oppose this amendment. It provides for parental notification for a minor seeking an abortion with no judicial bypass.

Current law prevents the use of title X money for abortion services. S. 323 does not affect that prohibition in any way. Therefore, the amendment that has been proposed is neither germane or relevant to the pending bill.

I welcome debate on amendments that address the issue of the gag rule. But to spend time on issues such as parental notification for abortion when the underlying bill does not even change existing policy on abortion is not a useful debate.

I also oppose this amendment because it would impose significant and unwise restrictions on the right of a young woman to obtain an abortion and is probably unconstitutional. I urge my colleagues to reject it.

The issue here is not whether teenagers faced with an unwanted pregnancy would benefit from adult guidance as they consider the appropriate course of action. Of course, young women should have the counsel of responsible adults while making an important health care decision. And I know that each of my colleagues would want to be the person to advise their own teenage daughter if such an unfortunate situation as an unwanted pregnancy were to occur.

In loving, stable homes, parental notification prior to a teenager having an abortion will generally happen without interference from the government. We know that 55 percent of teenagers under 18 who have had abortions say that at least one of their parents knew of their decision to have an abortion. The younger a teenager is at the time she seeks abortion sevices, the more likely it is that a parent knows.

Three-fourths of abortion patients that are 15 years old or younger say that they have told at least one parent. Fifty-four percent of older patients inform their parents—even without a legal mandate to do so.

Establishing a Federal requirement of parental notification prior to a teenager receiving medical services related to abortion would be a serious mistake for several reasons.

First, it would treat abortion differently from other similar medical treatment for minors. For example, most States permit minors to consent to medical care on their own in emergencies. Exceptions to parental consent requirements also are generally made for pregnancy-related care and other sensitive services.

Second, parental notification poses serious risks in dysfunctional families. For example, in Minnesota, whose two-parent notification without a judicial bypass law was found unconstitutional by the Supreme Court, the reason teenagers cited for fearing to tell their parents included parents physical or psychiatric illness, parents' drug or alcohol abuse, and the probability of verbal, physical, or sexual abuse.

The Federal district court that examined the effects of Minnesota's parental notification statute, which had been in effect for 5 years, determined:

> Notification of the minor's pregnancy and abortion decision can provoke violence, even where the parents are divorced or separated.

Third, experience shows that most teenagers who feel they cannot involve their parents in an abortion decision manage to obtain confidential abortion services. But evasion of parental notification requirements results in delays that can greatly increase both the health risks and costs to the teenager.

For example, in the first 8 months after Massachusetts adopted a parental consent requirement, the number of teenagers who left the State for an abortion increased by 300 percent. This travel delayed abortions by as much as nearly 6 weeks, thereby increasing health risks to teenagers. In addition, a teenager who travels far from her community for an abortion will be far from the abortion facility with its specially trained personnel, should complications develop.

The problems with communication and trust within a family that will prevent a teenager from voluntarily confiding in a parent about an unwanted pregnancy cannot be solved by a Federal mandate. Experience shows that the best interest of our teenagers who are faced with an unwanted pregnancy are served, not by forcing them to go underground at a very difficult time, but by providing a mature, concerned adult who will assist them in deciding whether to involve a parent, and in the absence of parental involvement, can help the teenager to decide a course of action in her best interest.

This substitute amendment is a reasonable and constitutional alternative to the underlying amendment. It recognizes situations where a young woman cannot notify her parents such as in the case of parental abuse, incest, or in dysfunctional families.

This amendment sets up two alternative systems to ensure that all minors receive the adult guidance that they need. It requires that one parent or guardian be notified. However, it also establishes alternative physician and judicial bypass procedures when notification to parents is not possible.

Under the physician bypass procedure, a physician would be required to certify that the minor receives information and counseling and that she has given her consent to the procedure. The information and counseling that the minor receives would be provided by a professional medical person. The professional who would provide the information and counseling could be a well-trained, qualified individual such as a physician, psychiatrist, psychologist, social worker, professional nurse, or a member of the clergy.

Under the amendment, the minor would be required to receive detailed information and counseling on the alternative choices available for managing the pregnancy including prenatal care, adoption, and pregnancy termination. The woman would also be counseled on involving her parents or guardians in the decisionmaking process.

The second alternative procedure would be a judicial bypass. This would enable a minor, whose family life prevents her from informing her parents, to seek a waiver of the notification requirement in State court. This is a common and reasonable approach adopted by many States.

The Supreme Court has ruled that, where two parent notification is required, some form of bypass procedure must be established in order to be constitutional. In fact, 27 States have adopted either a judicial or physician bypass method.

This substitute amendment is modeled after two State laws—Maryland and Maine. Both of these States have been satisfied that their parental notification laws strike a balance that ensures that the minor is making an important medical decision with adult supervision.

This amendment would not preempt any State parental notification law. Currently, 36 States have parental notification laws. My colleagues should know that support for this amendment will not affect the laws their own States have adopted in any way.

I support this amendment because it places the priority in the right place—on the needs of the young woman. The decision she makes may well affect her entire future. It is critical that she receive the proper information and counseling to make a well-informed decision.

I urge my colleagues to support the second-degree amendment.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from Indiana [Mr. COATS].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—52

Bond	Ford	Murkowski
Boren	Garn	Nickles
Breaux	Gorton	Nunn
Brown	Gramm	Pressler
Burns	Grassley	Reid
Byrd	Hatch	Roth
Coats	Hatfield	Rudman
Cochran	Heflin	Seymour
Conrad	Helms	Shelby
Craig	Johnston	Simpson
D'Amato	Kassebaum	Smith
Danforth	Kasten	Stevens
DeConcini	Kohl	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	
Exon	McConnell	

NAYS—47

Adams	Glenn	Mitchell
Akaka	Gore	Moynihan
Baucus	Graham	Packwood
Bentsen	Harkin	Pell
Biden	Hollings	Riegle
Bingaman	Inouye	Robb
Bradley	Jeffords	Rockefeller
Bryan	Kennedy	Sanford
Bumpers	Kerrey	Sarbanes
Burdick	Kerry	Sasser
Chafee	Lautenberg	Simon
Cohen	Leahy	Specter
Cranston	Levin	Wellstone
Daschle	Lieberman	Wirth
Dodd	Metzenbaum	Wofford
Fowler	Mikulski	

NOT VOTING—1

Pryor

So the amendment (No. 756) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I have discussed the pending situation with the managers and with the distinguished Republican leader. The only amendments of which the managers are aware, in terms of the substance of the amendments, are amendments by Senator NICKLES, which I understand will be accepted, and by Senator HATCH, which is in the process of being worked out and will be accepted. There may be other amendments by the Senator from North Carolina but I am unaware of either the number or substance of those amendments.

So I would like to inquire of the distinguished Republican leader, whether or not we can proceed?

Mr. DOLE. If the majority leader will yield, there are three Helms amendments; a Nickles amendment, which I understand will be accepted; a Hatch amendment, which would be accepted. I have a notation of a Danforth amendment which I was not aware of.

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

The PRESIDING OFFICER (Mr. CONRAD). 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.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there are two amendments which I understand the managers will accept and they will remain to accept those amendments. We are unable to be in a position to complete action on the bill this evening. Accordingly, there will be no further rollcall votes this evening. There will be rollcall votes during the day and in the evening tomorrow. I thank my colleagues.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 759

(Purpose: To require that Title X projects remain physically and financially separate from clinics that perform abortions and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 759.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following new section:

"SEC. . Nothing in this Act shall be construed to invalidate, nullify or amend regulations published at 42 CFR 59.9 and 59.10."

Mr. NICKLES. Mr. President, the amendment I have today deals with the regulations we have been discussing on the floor all day. First, let me be very clear. My amendment is a straightforward one and one that my colleagues should support, whatever their position on abortion counseling and referral may be.

My amendment does not restrict title X grantees from counseling about abortion or making abortion referrals. Instead, it makes it clear that abortion clinics, facilities whose principal business is abortion, may not receive title X funds.

It would also allow HHS to enforce its regulations today, but many may not recognize that they do not concern abortion counseling alone.

The regulation, 42 CFR 59, does three things. It says that title X projects must, one, and this is 59.8, prohibits counseling and referring for abortion; requires that when a women's pregnancy is confirmed, a project must provide a list of available referral agencies that provide prenatal and social services. Referrals may be made to an agency which provides abortion services in addition to its prenatal services if abortion is not its principal business.

Mr. President, my amendment does not touch section 59.8. What my amendment states is that it reaffirms section 59.9 and section 59.10. My language says that both section 59.9 and 59.10 are restated. We are not going to undermine those two regulations which are very good regulations, proposed and promulgated by the administration in February of 1988; 59.9 establishes requirements for physical and financial separation of title X programs from abortion activities. Each grantee will be reviewed on a case-by-case basis to ensure compliance.

Section 59.10 prohibits title X projects from encouraging, promoting, or advocating abortion as a method to increase the availability of abortion, providing speakers to promote abortion, or paying dues to an organization largely devoted to the promotion of abortion.

Mr. President, I think those two regulations have the support of this body. I certainly do not want to see them undermined by this legislation. My language states that nothing in this act be construed to invalidate, nullify, or amend regulations published at 42 CFR 59.9 and 59.10.

Mr. President, last week, the Appropriations Committee approved the fiscal year 1992 Labor-HHS-Education appropriation bill. Section 514 of this bill prohibits the Secretary from enforcing regulations published at 42 C.F.R. 59.8.

This amendment would prohibit the Secretary from enforcing its ban on abortion counseling and referral. But it would permit him to continue to bar abortion clinics from getting title X funds—59.9—and to prohibit grantees from lobbying on abortion—59.10.

If S. 323 were adopted with my amendment, it would have the same effect as adoption of section 514 of the Labor-HHS Appropriations Act.

My amendment would not uphold the regulation in its entirety.

Instead, it would clarify that the intent of S. 323 is to overturn the administration's rule on abortion counseling and referral, but that would not overturn other portions of the regulation.

Mr. President, if my amendment is adopted, HHS could require title X projects be organized so that they are physically and financially separate from the performance of abortions. This separation, the regulation says, would have to go beyond mere bookkeeping. Hospitals that provide a full range of services in addition to abortion could receive title X funds; abortion clinics could not.

If my amendment is adopted HHS could prohibit title X projects from lobbying for the passage of legislation concerning abortion.

Mr. President, my amendment clarifies that S. 323 does what its sponsors intend for it to do, and nothing more.

If the intent of the bill's supporters is to permit abortion counseling and referral, then my amendment does not interfere with that intent.

All my amendment does is to bar title X assistance for abortion clinics and for abortion advocacy.

Mr. President, I ask unanimous consent to print in the RECORD sections 59.9 and section 59.10.

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

§ 59.9 Maintenance of program integrity.

A Title X project must be organized so that it is physically and financially separate, as determined in accordance with the review established in this section, from activities which are prohibited under section 1008 of the Act and § 59.8 and § 59.10 of these regulations from inclusion in the Title X program. In order to be physically and financially separate, a Title X project must have an objective integrity and independence from prohibited activities. Mere bookkeeping separation of Title X funds from other monies is not sufficient. The Secretary will determine whether such objective integrity and independence exist based on a review of facts and circumstances. Factors relevant to this determination shall include (but are not limited to):

(a) The existence of separate accounting records;

(b) The degree of separation from facilities (e.g., treatment, consultation, examination, and waiting rooms) in which prohibited activities occur and the extent of such prohibited activities;

(c) The existence of separate personnel;

(d) The extent to which signs and other forms of identification of the Title X project are present and signs and material promoting abortion are absent.

EFFECTIVE DATE NOTE: At 53 FR 2922, Feb. 2, 1988, the Department of Health and Human Services promulgated rules revising the requirements for compliance by grantees and applicants for grants, codified at §§ 59.7–59.10 and various technical and conforming amendments were made to other sections of pre-existing regulations. Since the promulgation of this rule, four suits have been filed in various court jurisdictions. Consequently, the regulations are currently effective with respect to certain organizations and not with respect to others.

Users of this volume with questions as to whether these regulations are in effect with regard to them are encouraged to consult the Director of the Office of Family Planning, Public Health Service, Department of Health and Human Services (202) 245-0153. PHS published a document providing notice of these court actions in the Federal Register at a 53 FR 49320, Dec. 7, 1988.

§ 59.10 Prohibition on activities that encourage, promote or advocate abortion.

(a) A Title X project may not encourage, promote or advocate abortion as a method of family planning. This requirement prohibits actions to assist women to obtain abortions or increase the availability or accessibility of abortion for family planning purposes. Prohibited actions include the use of Title X project funds for the following:

(1) Lobbying for the passage of legislation to increase in any way the availability of abortion as a method of family planning;

(2) Providing speakers to promote the use of abortion as a method of family planning;

(3) Paying dues to any group that as a significant part of its activities advocates abortion as a method of family planning;

(4) Using legal action to make abortion available in any way as a method of family planning; and

(5) Developing or disseminating in any way materials (including printed matter and audiovisual materials) advocating abortion as a method of family planning.

(b) *Examples.* (1) Clients at a Title X project are given brochures advertising an abortion clinic. Provision of the brochure violates subparagraph (a) of this section.

(2) A Title X project makes an appointment for a pregnant client with an abortion clinic. The Title X project has violated paragraph (a) of this section.

(3) A Title X project pays dues to a state association which, among other activities, lobbies at state and local levels for the passage of legislation to protect and expand the legal availability of abortion as a method of family planning. The association spends a significant amount of its annual budget on such activity. Payment of dues to the association violates paragraph (a)(3) of this section.

(4) An organization conducts a number of activities, including operating a Title X project. The organization uses non-project funds to pay dues to an association which, among other activities, engages in lobbying to protect and expand the legal availability of abortion as a method of family planning. The association spends a significant amount of its annual budget on such activity. Payment of dues to the association by the organization does not violate paragraph (a)(3) of this section.

(5) An organization that operates a Title X project engages in lobbying to increase the legal availability of abortion as a method of family planning. The project itself engages in no such activities and the facilities and funds of the project are kept separate from prohibited activities. The project is not in violation of paragraph (a)(1) of this section.

(6) Employees of a Title X project write their legislative representatives in support of legislation seeking to expand the legal availability of abortion, using no project funds to do so. The Title X project has not violated paragraph (a)(1) of this section.

(7) On her own time and at her own expense, a Title X project employee speaks before a legislative body in support of abortion as a method of family planning. The Title X project has not violated paragraph (a) of this section.

[53 FR 2945, Feb. 2, 1988]

EFFECTIVE DATE NOTE: At 53 FR 2922, Feb. 2, 1988, the Department of Health and Human Services promulgated rules revising the requirements for compliance by grantees and applicants for grants, codified at §§ 59.7–59.10 and various technical and conforming amendments were made to other sections of pre-existing regulations. Since the promulgation of this rule, four suits have been filed in various court jurisdictions. Consequently, the regulations are currently effective with respect to certain organizations and not with respect to others.

Users of this volume with questions as to whether these regulations are in effect with regard to them are encouraged to consult the Director of the Office of Family Planning, Public Health Service, Department of Health and Human Services (202) 245-0153. PHS published a document providing notice of these court actions in the FEDERAL REGISTER at 53 FR 49320, Dec. 7, 1988.

Mr. KENNEDY. Mr. President, I urge that the Senate accept this amendment. It relates to two aspects of the Court decision which were not included in the Chafee amendment, one is on collocation, the separation of functions between the informational aspects of the Chafee amendment and the locations where there should be, if that is the judgment and decision, termination of pregnancy, and also the continued prohibition against lobbying.

Those are completely consistent with, as I understand, both Senator CHAFEE, myself, and the others who have been in support of the Chafee amendment. I hope that this language would be accepted because I think if there is any doubt in any Member's mind, this would certainly clarify it, clarify it in terms of the public policy question.

Mr. HATCH. Mr. President, on the minority side, we will accept this amendment as well.

The PRESIDING OFFICER. Is there further discussion or debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 759) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 760 TO AMENDMENT NO. 753

(Purpose: To provide for the collection and maintenance of statistics concerning information, counseling and referral services provided by projects receiving assistance under title X of the Public Health Service Act)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 760 to amendment No. 753.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 6, after line 4, add the following new subsection:

(h) PROVISION OF STATISTICS.—A project receiving assistance under title X of the Public Health Service Act shall maintain statistics concerning the pregnant women to whom such project has provided information, counseling or referral under subsection (a). Such project shall, on a quarterly basis, prepare and submit to the Secretary of Health and Human Services a report containing the sta-

tistics maintained by the project under this subsection for the quarter for which such report is submitted. The Secretary shall ensure that no records are maintained by such project which include the names of individual women and the referrals requested by such women.

Mr. HATCH. Mr. President, I rise to offer an amendment to S. 323 which would require that all title X grantees offer a quarterly report to the Secretary of Health and Human Services on which options each of their clients are referred to under this new regulation.

S. 323 requires a counselor to offer nondirective counseling to a woman on all of her legal and medical options including prenatal care, adoption, and pregnancy termination. My amendment would allow us to see how many clients are choosing abortions; how many choose to adopt; and, how many decide to go for prenatal care. Taxpayers have a right to know how their money is being spent. Some title X grantees have told us that they don't believe abortion is a method of family planning. Let us collect data on what type of options women will choose.

By requiring that clients report their choices, we can ensure that this counseling is truly nondirective. We have testimony, plus other documented evidence, that some grantees do cousel for one option over another. If we in Congress find that abortion is the preferred option, we may need to take additional steps.

The public comments received by the Department of Health and Human Services when the regulations were first proposed gave credibility to these concerns. Many comments argued that the practice of nondirective counseling had been the subject of widespread abuse, with many providers foregoing any balanced discussion of options in favor of pressuring women, especially teenagers, into obtaining abortions.

Many victims wrote in saying that they were never presented with any favorable or neutral information on any option except abortion. Typically, they described situations where the counseling they had received was one-sided, with the fetus dehumanized as a "lump of tissue," "fetal tissue," or "uterine contents." There was no information presented as to gestational characteristics and stage of development.

And, those commenters stated that they had experienced severe and long lasting regret over the decision to abort for they had not ever received adequate counseling at the time they made their decision to abort as to the remorse and guilt they may feel later.

Mr. President, let me quote from one of the women who wrote to the Department regarding her experience in a federally funded family planning clinic:

> These clinics do not provide adequate information to pregnant women. There is no "choice" involved in regard to abortion. It is the only solution offered. I know this from experience and have spoken to many women who have shared that experience.

This type of experience should not happen in a publicly supported program. Taxpayers have trusted us to use their money to help poor women learn the responsibilities of parenthood and how to protect themselves from unwanted pregnancies. Abortion is not part of that equation.

Mr. President, I know that we all agree that Federal family planning programs need to be responsible and truly give women all of their options. No entity has a stronger mandate to do so then the Government.

Let us collect the statistics on what option pregnant women choose. I appreciate my colleagues accepting this amendment.

Mr. KENNEDY. Mr. President, this is an acceptable amendment. It provides for additional kinds of information for the Senate in terms of what paths are being followed and still preserves the confidentiality aspect of which we believe is extremely important. It will provide additional information.

I feel that we ought to go ahead and accept the amendment.

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

The PRESIDING OFFICER. Is there further discussion?

If not, the question is on agreeing to the amendment.

The amendment (No. 760) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I rise today in support of S. 323, a bill introduced by the Senator from Rhode Island [Mr. CHAFEE] on January 31, 1991, and reported out by the Committee on Labor and Human Resources on June 6, 1991. I am proud to be an original cosponsor of this bill which would overturn regulations generated by the Reagan administration in 1988 and upheld by the Supreme Court on May 23, 1991, in the case Rust versus Sullivan. These regulations prohibit counselors and health care professionals employed at title X funded clinics from discussing abortion as an option when providing counseling to their pregnant patients. In the wake of the Supreme Court decision, it is imperative that we move to overturn the gag rule in order to preserve Americans' fundamental rights to freedom of speech and freedom of choice.

Mr. President, as one of the original sponsors of title X when it was enacted in 1970, I can say unequivocally it was never intended by the authors to allow an antichoice administration to put a gag on the mouth of the health care professionals who work in title X programs. It was intended to give low-income women the same reproductive choice options that are available to women who have the financial resources to pay for family planning services.

Mr. President, the original guidelines of the Public Health Service Act of 1970 provided that:

> Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended pregnancy are to be given nondirective counseling on the following courses of action, and referral upon request: Prenatal care and delivery, infant care, foster care or adoption and pregnancy termination.

Several studies confirmed that employees of title X clinics functioned appropriately under these guidelines by simply providing information and referral for abortion services only when requested by their patients. Under the new regulations, however, these professionals are forbidden from providing any information regarding the option of abortion even for patients who ask for such information.

By restricting what a health care provider can say, these regulations create serious ethical problems for the doctors involved. If a woman who has a serious health problem becomes pregnant and visits one of these title X clinics she should be informed of all of her options for her own safety. It would be difficult for a doctor to ignore a patient's general health when counseling her about an unwanted pregnancy. The gag rule makes it impossible for a physician to provide each patient with all the information which may be pertinent to her health. Doctors are also faced with the possibility of malpractice suits if dangerous or deadly complications arise in cases of pregnant women with serious health problems. The scenario setup by these regulations is a grim one. No doctor should have to compromise his or her professional position or risk a malpractice suit in order to satisfy government regulations which violate our freedom of speech.

These regulations undermine the very premise upon which title X is based. Title X was created to provide quality family planning services for low-income women. Many of these clinics rely on Federal funds to supplement State and private funds to operate their clinics. The gag rule, by restricting what employees can say, has caused many clinics to pledge to give up Federal funds in order to provide information to women who request it. This denial of Federal funding would cause a reduction in the quantity and quality of family planning services and other health services that these clinics provide. The result will most certainly be more unintended pregnancies and ultimately more abortions—a result no one wants.

This problem is especially relevant in my State of California where roughly

$12 million goes to clinics as part of title X. Clinics in California will be forced to choose between State and Federal laws, because State law requires that clinics accepting State funding must discuss abortion as an option. The gag rule prevents counseling on abortion as an option, so California clinics which receive both title X and State funds would be forced to forgo either State funds or title X funds. The number of women in California affected by these regulations is astounding: an estimated 100,000 California women would not be served if either Federal or State funds were unavailable.

Government regulations which deny health care professionals the right to provide patients full and accurate information about all alternative courses of treatment and the risks and benefits of each option are inconsistent with the promotion of good medical practice and deny women dependent upon title X programs the full information they need to make an informed choice. Now more than ever we need to make an informed choice. Now more than ever we must move to overturn the gag rule. The health and welfare of American women has been jeopardized by these regulations. As evidenced by the Rust versus Sullivan decision, women in this country can no longer look to the Supreme Court to protect their fundamental rights. They can and should look to Congress to overturn the gag rule and ensure their access to all the information available to them.

Mr. GORTON. Mr. President, occasionally, this body is given the opportunity to define better the proper role of the Federal Government in the lives of American citizens. S. 323 is such an occasion. While reasonable persons may disagree on issues of federally supported family planning services, the gag rule is an improper, unreasonable, and dangerous intrusion into the health profession by the Federal Government.

Although S. 323, the Title X Pregnancy Counseling Act, was introduced last January, it is of recent significance because it would overturn the May 23, 1991, U.S. Supreme Court ruling in Rust versus Sullivan. In that decision, the Court upheld 1988 HHS regulations which prohibited federally funded family planning clinics from providing information to pregnant women on abortion. HHS responded by allowing title X centers 60 days to comply with the regulations.

S. 323 would prevent HHS from enforcing its 1988 regulations and require HHS to return to its pre-1988 policy of full disclosure of all legal and medical options. More specifically, when requested by the woman, a clinic would provide information "with nondirective counseling, and referral on request, about alternative courses of action that shall include: First, prenatal care and delivery; second, infant care, foster care, or adoption services; and third, pregnancy termination."

Of the three options, I consider the last the least acceptable and most tragic. I would personally like to see adoption consistently preferred to abortion. That is why I introduced S. 1215, the Adoption Assistance and Maternal Certificates Act, with Senator NUNN and why I cosponsored S. 1301, the Omnibus Adoption Act of 1991 sponsored by Senator CRAIG.

The issue at hand with S. 323, however, is not which option the Federal Government should favor. Mr. President, the issue is whether the U.S. Government should prohibit federally supported health care professionals from discussing an option protected by the law and the Constitution. As long as abortion remains a legal option at certain times during pregnancy, health care professionals should not be prevented from discussing it with their patients. Despite my strong preference for adoption as a solution, I must respect and protect the professional duty of health care providers to disclose fully, in a nondirective fashion, the legal and medical options to a woman requesting information.

Mr. President, I understand the concerns of taxpayers who do not wish their tax money to go to abortion counseling. However, I must also act on behalf of those taxpayers who are concerned that Government editing of health care advice is fundamentally intrusive and dangerous. The best Government-supported health counseling is one that consistently and fully discloses all legal and medical options when requested.

I therefore urge my colleagues to vote for S. 323.

Mr. DODD. Mr. President. I am an original cosponsor of the Title X Pregnancy Counseling Act and I rise today to urge its prompt passage. I will explain my support for this legislation, but frankly, I fail to see why this issue needs to be debated at all.

The Department of Health and Human Services has ruled that health professionals receiving title X funds are prohibited from mentioning to their patients a certain legally permitted, medically established alternative. The public has appropriately labeled this stipulation the gag rule. And that about sums it up. Doctors and nurses would be restrained from providing a woman with complete information about all her pregnancy related options.

Should this ruling stand, it would encourage a radical, outrageous departure from the ethics governing medical counseling. In order to receive Federal funding, physicians would have to compromise their judgment and arbitrarily restrict their advice. This gag rule, in effect, promotes professional malpractice.

My colleagues, I am sure, will delineate the other undesirable results of this administrative decree: Two classes of medical care would exist—private, unimpeded health care for those who can afford it, and gag ruled, title X care for the poor. Many clinics would likely forgo title X funds and family planning services for the poor would consequently decrease.

The debate, however, is not whether medical counseling should be censored. No responsible, thinking adult could possibly condone it.

Mr. President, there are people who would like to make this into a debate over abortion—which as everyone knows, is permitted in the United States. Many disagree with it and seek to legislatively prohibit it—which is their right. But the antiabortion forces are also waging legal warfare. But as happens in war, there are many unintended casualties—collateral damage in current parlance. In this instance, the casualties are health professionals who try to provide balanced medical counseling and indigent patients whose only source of family planning is through title X program. Unfortunately, the forces of antiabortion show little concern.

Senator CHAFEE's bill would repair the sizable collateral damage wrought by their tactics. It restores fairness and common sense to title X by codifying the rights of patients to receive comprehensive, complete, and nondirective medical counseling. I encourage my colleagues in the Senate, as the Members of the House have done—to demonstrate their resounding support for this legislation. The abortion debate, meanwhile, should remain a debate over its legality. But while abortion is legally permissible, and unless its legality is overruled, we should not infringe upon the rights of people to know about it.

Mr. LIEBERMAN. Mr. President, I rise today in support of S. 323 which will ensure that family planning clinics are able to provide women with complete information and referrals on their reproductive options. The so-called gag rule bars health care workers from providing women with information on all their medical options. The gag not only improperly limits health care workers' ability to provide medical information, it also discriminates against those women whose only access to health care is through publicly funded clinics.

Women with access to private doctors receive information about all their reproductive options, but under the gag rule poor women can learn only about those the government deems appropriate. The majority opinion in Rust versus Sullivan states, "Nor is the doctor-patient relationship established by the title X program sufficiently all-encompassing so as to justify an expectation on the part of the patient of comprehensive medical advice." In fact, comprehensive medical advice is ex-

actly what a woman expects when she enters a title X funded clinic. For a woman with no health insurance and no private doctor, a visit to this clinic may be the only health care she receives. The fact that the woman is coming to a publicly funded clinic does not mean that she should receive limited advice.

The gag rule also raises serious questions about whether the government can use its financial control over much of the medical care system to place restrictions on how doctors and health care professionals practice medicine. It opens the door to political censorship of medical advice.

Enactment of S. 323 will ensure that all women have access to information about all their options, including prenatal care and delivery, infant care, foster care and adoption, and pregnancy termination. Enactment of S. 323 will not mean that any woman will be coerced to choose a particular option, just that she will have the information she needs to make her own decision.

I look forward to working with my colleagues for the passage of S. 323 as quickly as possible.

Mr. BURDICK. Mr. President, I am proud to be a cosponsor of S. 323 to make sure that clients at federally funded family planning clinics are fully informed of all their legal and medical options.

Title X of the Public Health Service Act offers family planning services to millions of low-income women, averting thousands of unintended pregnancies. Clients at title X clinics deserve the same information that is available to women who see doctors in private practice. I see the gag rule as yet another attempt of the Government to make it almost impossible for a poor woman to get a legal abortion.

My State has strict antiabortion laws which require parental and/or spousal consent. A new informed consent law that is being challenged in the courts mandates a 24-hour delay while the woman reviews certain information. This is especially onerous in a State which does not have a single doctor performing abortions and just one clinic where a woman can receive a legal abortion on certain days of the week.

Women travel to that clinic in Fargo from across the State, as well as from Minnesota, Saskatchewan, and Manitoba. Jane Bovard of the Women's Health Organization faces regular pickets and other harassment from abortion foes, but she continues to offer this service. If family planning counselors and other health professionals in the area could not tell a pregnant client about her clinic, even upon request, women with unintended pregnancies could take matters into their own hands, with tragic results.

Our Government should not block a poor woman from consulting with her doctor and making her own decision about a legal abortion early in a pregnancy. I will vote against all amendments to weaken this legislation.

Mr. LEVIN. Mr. President, I rise today in support of S. 323, a bill to ensure that physicians at title X family planning clinics be permitted to inform women of all their legal medical options.

Enacted in 1970, title X of the Public Health Service Act provides funds for nearly 4,000 public and private nonprofit family planning programs. These agencies offer a wide variety of health care services for women, including gynecological examinations, breast and cervical cancer screening, pregnancy tests and counseling, contraception advice, and infertility programs. Many of these sites also provide prenatal care and maternity services. For many women, these services are their only form of health care.

For the past 20 years, title X clinics have proven remarkably successful. These facilities provide health and family planning services to more than 4.1 million women each year, nearly 1 in 4 American women. Studies show that millions of unintended pregnancies have been averted because of these programs, almost one-half of which were likely to have resulted in abortions. By providing confidential and safe contraception services, title X clinics have been effective in reducing the number of unplanned pregnancies.

in 1988, however, the quality and effectiveness of these programs were threatened when the Department of Health and Human Services, under the Reagan administration, implemented regulations which prohibit title X clinics from providing clients with any information about pregnancy termination. Title 10 Programs have always been prohibited from using Federal funds to perform abortions. The 1988 regulations, however, went one step further and prohibited clinics from providing any information about pregnancy termination, even if the woman requests such information.

These restrictive regulations took effect in March 1988 and were immediately subject to law suits and public debate. On May 23, 1991, in the decision of Rust versus Sullivan, the Supreme Court upheld the HHS regulations by a 5-to-4 decision.

Recent polls show that a majority of the American people strongly disagree with the HHS regulations and the Supreme Court decision, and believe that the 1988 gag rule forces censorship on the Nation's health care system. These polls further indicate wide support for legislation which would codify previous guidelines governing title X and maintain congressional intent, that title X recipients be allowed to receive complete counseling concerning all legal, medical options.

It is imperative that the title 10 Pregnancy Counseling Act be enacted for several reasons. Most importantly, the 1988 gag rule denies women seeking title X services complete information in order to make responsible, intentional decisions about their pregnancies. Before the gag rule, title X clinics were able to offer complete, nondirective counseling which included all possible legal options available to pregnant women. In order to make an informed choice, women have a right to know the options, not just those that the President deems acceptable.

The 1988 regulations severely impede the relationship between patients and their physicians. The Government does not have the right to stand in the middle of this relationship or dictate the nature of this exchange. Violations of patient-doctor relationship threaten the quality of health care available to all people. Health care and the first amendment both run the risk of being put on the critical list.

For these reasons and many others, I offer my support to S. 323.

AMENDMENT NO. 755

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for voting against the Cochran substitute amendment to the Chafee substitute to S. 323, the Pregnancy Counseling Act.

Earlier in this debate, I offered an amendment that would have removed pregnancy counseling from the setting of a federally subsidized title X family planning clinic. My amendment would have ensured that pregnant woman would be referred to a prenatal care setting where they could learn all of their medical options concerning pregnancy.

The Cochran amendment, and the Chafee amendment underlying it, would continue the practice of counseling pregnant women in the setting of a title X family planning clinic. That is simply outside the intended scope of title X, which is to provide preconception counseling and services only. Once a woman is pregnant, she requires specialized services that are not within the purview of the title X Program.

Mr. President, in this Senator's view, it just makes good medical sense that a pregnant woman be referred from a title X setting to a specialist in the area of treating pregnancy. Women who are pregnant should receive complete and comprehensive pregnancy options counseling from obstetrical care providers outside of a title X facility.

I deeply respect the good intentions of my friends and colleagues Senator COCHRAN and Senator CHAFEE in this debate. But I believe that bogging down the much-needed and underfunded title X family planning programs with the controversies surrounding pregnancy counseling will erode the chances title X has for broad bipartisan support in this Congress.

For the sake of giving title X the support and funding it deserves as a

key component of a healthier America, I encourage my colleagues to vote against the Cochran amendment, as well as the underlying Chafee substitute.

Mr. WOFFORD. Mr. President, soon we will vote on final passage of S. 323, the Title X Pregnancy Counseling Act of 1991.

I believe strongly that abortion should not be treated as a method of family planning akin to abstinence or to the use of contraceptives. I also believe that the Federal Government has no business interfering with the trust and candor our society has long considered fundamental to doctor-patient and other professional-client relationships.

Tomorrow we will decide what types of information title X family planning programs can give to women who confront unwanted pregnancies. After listening carefully to the debate, I have concluded that the Chafee substitute to S. 323 is the proposal that best addresses my concerns on this difficult and important issue.

The Chafee substitute protects health professionals who oppose abortion from ever having to counsel a woman on abortion or ever having to refer a woman to an abortion provider. It protects the women who come to title X clinics trusting that if they ask for information on all legal options, they will get it. And it protects the doctors whose professional standards call for them to be free to discuss all legal options with their patients.

But the so-called gag rule is not the only issue we address today. In voting for this bill, we also send a signal that while we oppose the notion that the Federal Government should dictate State laws on parental involvement, we know how crucial family involvement can be to a young woman who faces a decision on abortion.

In Pennsylvania, we have a law that requires a pregnant teen who thinks she should have an abortion to talk it over with a parent and get his or her consent. If the teen will not or cannot talk with either of her parents, the only way she can get an abortion is to go to court and convince a judge that she is mature enough to make the decision for herself or that the abortion is in her best interests.

I believe that under almost any circumstances pregnant teens should consult with at least one of their parents. Providing guidance and understanding support in difficult times is a big part of what families are about. Unfortunately, not all families succeed at that task, and we must show special concern to the young women who come from such troubled families.

That is why I support laws such as the one we have in Pennsylvania: laws which insist upon parental involvement in most cases, but give young women from families that are abusive, neglectful—or worse—somewhere else to turn for help. And that is why I voted this evening to oppose the amendment offered by my colleague from Indiana, Senator COATS. However much I agree with the aims of Senator COATS' amendment, I could not support a proposal that has neither an exception for rape nor a means of judicial bypass.

The Mitchell amendment does not suffer from this flaw. Carefully crafted so as not to interfere with existing State laws on parental consent and notification, the Mitchell proposal strongly encourages family involvement in abortion decisions in all States, yet provides adequate judicial bypass. The Mitchell amendment, moreover, does not supersede the Pennsylvania law which calls for the consent of a parent or a judicial order.

Mr. KENNEDY. Mr. President, it is my undertanding that the only remaining amendments are the Helms amendments.

Mr. HATCH. Mr. President, also there is a possible Dole-Hatch amendment, but I doubt that that will occur. But we at least put our colleagues on notice that there could possibly be one other in addition to the Helms three amendments.

Mr. KENNEDY. That is the state of where we are, Mr. President. As I understand it, the Senator from North Carolina is not prepared to offer those amendments this evening.

So as far as this Senator is concerned, as much as we would like to continue the dialog and discussion with my friend and colleague from Utah, I think we will permit the Senate to go on to further business if that is agreeable with the Senator from Utah.

Mr. HATCH. That is agreeable, Mr. President.

Mr. KENNEDY. Mr. President, it is my understanding we will have no further action on this legislation this evening and we will await the leadership call to continue to, hopefully, a very early conclusion of the legislation.

I thank my colleagues from Utah and all Members for their cooperation and attention to the matters debated today.

Mr. HATCH. Mr. President, I thank my colleague and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. 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 NATIONAL MOTOR VOTER BILL

Mr. FORD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may move to the consideration of Calendar No. 89, S. 250, the national motor voter bill at any time, nothwithstanding provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. FORD. Mr. President, I move that the Senate proceed to the consideration of Calendar 89, S. 250, and I now send a cloture petition to the desk.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

Wendell Ford, Jeff Bingaman, Daniel K. Akaka, Max Baucus, Timothy E. Wirth, J.R. Biden, Jr., George Mitchell, Richard Bryan, Bob Kerrey, Joseph Lieberman, Pat Leahy, Brock Adams, Daniel K. Inouye, Bill Bradley, John F. Kerry, Frank Lautenberg.

Mr. FORD. Mr. President, I now withdraw the motion.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

DR. CAROL IANNONE

Mr. D'AMATO. Mr. President, I am proud to stand here to day in support of a constituent who personifies the very best of America. She is Dr. Carol Iannone, the President's nominee for service on the National Council on the Humanities. She is from a working-class Italian-American family, born and raised in the Italian section of East Harlem, and the first in her family to receive a college education.

But Dr. Iannone did not stop there.

She went on to receive two advanced degrees in order to dedicate her life to the humanities. Over nearly the last 20 years, she has devoted herself to teaching students about the expanded perspective good literature can bring. She has in turn made the humanities accessible to the general public through her very lucid and thoughtful assessment of contemporary culture in public journals.

In that context, I must express my surprise to hear concern that Dr. Iannone is not qualified and that she could not be approved for service on the Council. This is a woman with three degrees, nearly 20 years of teaching experience, a lengthy list of articles published in well-known journals, not to mention honors in teaching and widespread endorsements from some of the most prominent intellectuals today.

Let the record be clear. There can be no question about Dr. Iannone's qualifications. She is superbly qualified to provide advice on the various academic and public concerns which come before the National Endowment for the Humanities.

What is really at issue here is that Dr. Iannone has dared to go on record as opposed to some of the trends in the academic community today. She has been willing to state publicly that intolerance has found a home on the American campus, and that scholarship has too often reduced itself to a political agenda that ignores quality and merit.

I rue the day when we make it impossible for persons in the academy, in newspapers, or even before the Senate to speak out, to criticize, and to disagree. You and I may not always agree with what Dr. Iannone says. But that is not what is as issue here today.

What is at issue is the very freedom to speak out and to engage in that wide-ranging intellectual discourse that has made our universities and our country the envy of the world.

I urge my colleagues on the Labor and Human Resources Committee to vote for a fine human being and outstanding critic and to give Dr. Iannone their support.

Mr. President, I ask unanimous consent that several newspaper editorials concerning Carol Iannone's nomination be printed in their entirety at the conclusion of my remarks.

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

[From the New York Post]

CAROL IANNONE'S ORDEAL

In early July, the Senate Labor and Human Resources Committee will take a vote of historic significance. Oddly, given the committee's general purview, the issue at hand isn't a sweeping piece of collective-bargaining legislation or anything of that sort.

Still, the vote will turn on a central American value—freedom of expression.

As often happens in the American national experience, this issue presents itself in a relatively benign form. National Endowment for the Humanities (NEH) Chairwoman Lynne Cheney has nominated NYU Professor Carol Iannone to one of the 26 slots on the NEH's advisory council.

As a literary critic and a leader of the National Association of Scholars, Iannone has played a key role in fighting the "political correctness" movement now entrenched on many of the nation's campuses. She has written on a range of literary topics—with a breadth that puts most narrowly focused literary professors to shame. And Iannone has often bucked the tide, manifesting a veritable allergy to conventional wisdom.

Demonstrating striking intellectual courage—witness the opposition to her appointment—Professor Iannone has mocked feminist scholarship and has even noted a growing tendency to award literary prizes on the basis of race and ethnicity rather than achievement.

To venture the suggestion that, say, Pulitzer Prizes have become a mode of reparations isn't a path to peer-group popularity. And, in fact, Iannone has enraged the highly politicized Modern Language Association and other left-liberal groups.

Iannone has been slandered (always anonymously) as a "racist." And it's been suggested that she lacks sufficiently "distinguished" academic credentials.

The former charge is hurled with such frequency these days—against everyone and anyone—that it's almost devoid of meaning. As for her level of distinction, the quality of a scholar's work will always remain a somewhat subjective proposition. But literary criticism need not be an entirely impenetrable realm.

What if the senators on the Labor and Human Resources Committee actually took out half an hour to read Iannone's essay on the Brett Easton Ellis affair in the current issue of Commentary magazine before they voted? What if they then compared this piece to anything written by any officer of the Modern Language Association in the past five years? We'd guess they'd likely conclude that Carol Iannone is plenty "distinguished"—both in general, and especially for the post to which she's been nominated.

The bottom-line point here is that none of the senators need share Carol Iannone's sometimes provocative views. (Much of her work, it should be noted, betrays a decidedly mainstream sensibility.) They need only endorse her right to hold them—in the face of the the insidious campaign, informed by smear and innuendo, that's been waged against her.

[From the Rochester (NY) Daily Record, June 10, 1991]

ATTACKS ON MS. IANNONE BADLY NEED AIRING

(By Ray Herman)

Although the issue isn't likely to fill the streets with protesters, the case of Carol Iannone is significant all the same. It badly needs the disinfectant of sunshine and exposure.

For those of you who are into serious modern literature, you know that Iannone, a literature professor at New York University's Gallatin Division, has produced an abundant and respected body of literary criticism over the last decade.

But even if you couldn't pick Iannone out of a police line-up, it doesn't matter. The threshold point is that she is a true scholar with a doctorate who teaches at a major American university.

Under ordinary circumstances, Iannone's recent nomination to serve on the National Council on the Humanities would be a little-noticed, pro-forma exercise.

However, the nomination to the council, which advises the National Endowment for the Humanities on grant-giving, has triggered a full-blown piranha-feed reminiscent of the successful mugging of conservative scholar Robert Bork who was nominated a few years back to serve on the U.S. Supreme court.

The attacks on Iannone have the same odor. Her nomination may suffer the death of 1,000 cuts.

But what, pray tell, are Iannone's sins and transgressions? Why are elitist noses out of joint on this one? Why are all the accusations, objections and "concerned" letters being directed to the Senate Labor and Human Resources Committee which must pass on the nomination? Why is an ideological lynch mob forming?

Well, for one thing, Iannone has had the impudence to serve as an active member of the National Association of Scholars, an organization which repeatedly has pointed to the rise of intellectual intolerance by liberals which is now sweeping American campuses.

According to liberal "Politically Correct" dogma, students, faculty and administrators must project the "right" views of race, sexism and other categories of victimology even while white males must be projected as history's primary force of oppression.

The chief victim of the "Politically Correct" is, of course, academic freedom.

Iannone also has criticized "literature by quota," noting in a recent "Commentary" magazine piece that there has been a growing tendency to award literary prizes on the basis of race and gender rather than literary merit, further observing that the five finalists for this year's National Book Award happened to be a perfect "Rainbow Coalition."

Although she has praised the works of such fine black writers as Ralph Ellison and Nigerian novelist Chinua Achebe, Iannone was branded with the all-purpose "racist" charge recently when she drew attention to the fact that Toni Morrison won a Pulitzer Prize after a group of black writers demanded one for her.

She also observed that the three awards given to Alice Walker's "The Color Purple" "seemed less a recognition of literary achievement than some official act of reparation."

It's already stunningly obvious that the elitists who man the ramparts in the nation's universities, foundations and lobbying groups feel that Iannone may be placed in a position to strike too close to their thrones of power.

On Iannone's comment about the black writers demanding a Pulitzer for Toni Morrison, Joe Conarroe, president of the Guggenheim Foundation, tagged the comment as "arrogant, inflammatory nonsense."

Phyllis Franklin, executive director of the Modern Language Assn., says the racist accusations directed at Iannone "raise good questions."

And the People for the American Way, which helped sink Bork, also has weighed in with anti-Iannone commentary.

Even if Iannone survives the smears and slander and wins the appointment, it's useful to wonder what her ordeal (and many others like it) does to intellectual freedom and debate in terms of quieting others.

Her biggest sin seems to be treating minorities and others as equals by talking to and about them as one would talk to and about everyone else.

[From the New York Post, May 22, 1991]

LITERATURE'S PC COPS AT WORK

Carol Iannone is a literature professor at New York University's Gallatin Division. During the 1980s, she emerged as one of the nation's more prolific and penetrating literary critics.

She has also played a leadership role in the National Association of Scholars, an organi-

zation which was one of the first to warn of the rise of intellectual intolerance now sweeping over the nation's universities.

One target of Iannone's criticism has been feminist scholarship—a field to which she devoted her doctoral dissertation. But she has also created a stir by criticizing "Literature by Quota"—as she described it in a recent essay published in Commentary magazine.

There Iannone argued against what she terms a growing tendency to award literary prizes on the basis of race and gender rather than literary merit—noting that the five finalists for this year's National Book Award just happened to make up a perfect "Rainbow Coalition."

Iannone also recalled that Toni Morrison won a Pulitzer Prize after a group of black writers took the unprecedented step of demanding one for her, and that the three awards given to Alice Walker's "The Color Purple" "seemed less a recognition of literary achievement than some official act of reparation."

We happen to think that Carol Iannone's judgment on these matters is pretty sound. But even if we didn't, it wouldn't be all that relevant to the matter at hand.

Iannone has been nominated for a seat on the National Council of Humanities—a board which advises the National Endowment for the Humanities on grant-giving.

Under normal circumstances the appointment of a woman with a doctorate who teaches at a major university and has produced an extensive and respected body of literary criticism would be virtually pro forma.

But because Iannone has published articles which some of the reigning dogmatists of liberal academia have found politically incorrect, she is facing a large, well-orchestrated effort to undermine her appointment.

The highly politicized Modern Language Association has raised questions about Iannone's qualifications, and People for the American Way—a liberal group whose interest in the field of literary criticism has not previously been evident—has asked the Senate to "carefully review" the nomination.

"It's clear enough what is going on here: Various liberal groups are trying to chill discussion about a number of issues in the country by imposing a standard of "political correctness."

If, like Iannone, you ridicule feminist scholarship, or think that Morrison isn't all that she's cracked up to be, they'll punish you by trying to prevent you from getting a job, or making sure you can't sit on a government board, or insinuate that you are—here's a potent slur—a "racist."

Even if the PC crowd doesn't win all its battles, it is managing to disseminate an element of doubt and fear in the minds of serious writers, forcing them to wonder which phrase, or which idea, might be taken up by the PCers, twisted around, and used as a weapon.

We have no doubt that Carol Iannone would survive very well without serving on the National Council of the Humanities.

But we fear for the intellectual life of this country should the odious orthodoxy Iannone's critics are seeking to promote by denying her this seat succeed.

[From the Washington Post, May 20, 1991]

DISPUTE IN THE HUMANITIES

Carol Iannone is a faculty member at New York University who has made a reputation as a slash-and-burn critic less of literature than of certain aspects of modern literary scholarship and criticism. A particular target has been feminist criticism. She has written that what used to be a feminist insurgency in college English faculties has become an "ascendancy" with an essentially political or social agenda such that a fundamental gulf exists between "feminist critics and those who care about protecting the conditions necessary for creating and appreciating great literature."

In similar fashion she has recently complained that what she regards as inferior books have been given undeserved national awards for political reasons, including simply that their authors were black. She gave as one example Alice Walker's 1983 novel "The Color Purple," writing that "inasmuch as even positive critics took ample note of [its] many stylistic and aesthetic flaws," the honors bestowed upon it "seemed less a recognition of literary achievement than some official act of reparation."

Now Carol Iannone has been nominated by the Bush administration to a seat on the National Council on the Humanities. The nomination has turned out to be as much an act of provocation as her work. The Modern Language Association, the professional association of college teachers of English and other modern languages, and several other academic and literary groups have asked the Senate to vote it down. They say that their objections have to do not with the nominee's politics or views of their profession but with her record of scholarly achievement, which they call too thin. Much of her work has been journalistic (particularly in the magazine Commentary) rather than scholarly. "Dr. Iannone's record is not without merit; it is simply without distinction," the MLA's executive director has said.

Other critics, however, have said her views are indeed an issue; at least one has branded her racist. Defenders say meanwhile that the MLA's position is elitist and a smoke screen for an effort to enforce the academy's current sense of political correctness while exacting political revenge. The fight over political correctness is serious. There is indeed (as all too often) an element of lock step and intolerance in the academic world. But this is a nomination that has been raised to a level of symbolic importance it does not deserve.

It's foolish to pretend that Miss Iannone's (political) views on the politicization of her profession aren't central to this dispute. It is mainly those views for which she is known and on the basis of which she was nominated. They may not be to everybody's liking and may on many points be wrong, but they are well within the zone of what is or ought to be permissible discourse; it greatly distorts the debate to call them or her racist (and her supporters—this is how far it has come—point in her defense to other occasions on which she has praised the works of black authors).

The humanities council is advisory only. Its 26 members (not all scholars) meet four times a year, mainly to pass on the more than 2,000 grants made annually by the National Endowment for the Humanities. The council rarely challenges the prior recommendations of outside review panels or the NEH staff, and in any case it is the NEH chairman who has the final say. Miss Iannone is altogether qualified to serve, and nothing she has written disqualifies her. The Senate is being asked to decide something more than her qualifications, and it should decline.

[From the Washington Post, July 8, 1991]

HERESY HUNT: THE CHARACTER ASSASSINATION OF CAROL IANNONE

(By Nat Hentoff)

Having learned a lot about politically correct posses during the McCarthy years, I remain particularly interested in attempts—from the right or the left—to punish heresy by character assassination. One of the most repellent such attacks I've seen for a long time is being directed against Carol Iannone, who has been nominated for a six-year term on the advisory council for the National Endowment for the Humanities.

The Senate Labor and Human Resources Committee decides these matters, and the vote, scheduled for July 17, is too close to call. Some of the senators are troubled by the charges against her of racism and anti-feminism.

Among those opposed to her are such gatekeepers of the new literary orthodoxy in the academy as the executive council of the Modern Language Association and the American Council of Learned Societies.

As if this weren't enough, Garry Wills, in his syndicated column, has called Iannone "a bigot" on the basis of a single article by her. Also, Joel Conarroe, president of the John Simon Guggenheim Memorial Foundation, says in the Philadelphia Inquirer, that she "could be described as a racist." (He cites the same one article).

Conarroe later told me that what he had actually said was: "She has put herself in a position of being called a racist." The first quote was a little less slippery.

There is also the accusation that Carol Iannone's academic qualifications are much too slight for so august a council. It's as if her three college degrees—including a PhD in English Literature from the State University at New York in Stony Brook—had come to her from some mail order outfit.

Not mentioned by the opposition is that at the Gallatin Division of New York University, where she is head of freshman studies, Iannone teaches non-traditional students: older people going back to school after a long time and students with families who also work while going to college. This dread "conservative"—labeled as such with the same mean spirit that liberals used to be labeled fellow travelers—is a working populist.

But her qualifications do not really matter to her accusers. Iannone is under siege because her opponents do not like her views. Her "racist" article, for instance, was "Literature by Quota" in Commentary (yes, Commentary). What she actually wrote was that some of the black writers who have been winning some of the biggest literary prizes are being honored "less than [as] a recognition of literary achievement than [as] some official act of reparation."

The formidable black literary and music critic, Stanley Crouch, an Oxford University Press author, has said much the same thing. Does that make him a self-hating "Negro"? In the same Commentary article, Iannone is even less enthusiastic about a novel by Joyce Carol Oates. Does that make Iannone anti-white?

William Raspberry has made the point that when the word "racist" is used loosely and irresponsibly, it loses its moral force. Joel Conarroe and Garry Wills, in attacking Iannone as a "racist," have indeed helped strip the word of its value.

As for Iannone being anti-feminist, a good many feminists agree with her that when feminist scholarship is manipulated for political ends, the scholarship becomes corrupted. Iannone quotes a 1986 resolution

passed by the Coordinating Committee of Women in the Historical Profession and the Conference Group in Women's History:

"We believe as feminist scholars we have a responsibility not to allow our scholarship to be used against the interests of women struggling for equity in our society."

No wonder the politically correct mandarins in the academy are working so hard to discredit this women who does not belong to any of the usual herds of independent minds.

The most surprising member of the opposition is the writers' organization, PEN, which helps politically incorrect writers in trouble all over the world. Now PEN is among those hunting down Iannone because of her disrespect for orthodoxy.

If Carol Iannone had been a regular contributor to the Nation or the Village Voice, with a couple of degrees from an obscure and undistinguished school, her present critics would have been silent. But if the real Iannone is sent down because of her views, this Senate action will have told other independent professors down the line to censor themselves henceforth if they aspire to official recognition.

I hope the senators in charge of Iannone's fate, particularly the liberals among them, will read some of her essays before becoming mechanical parts of this posse.

[From the Wall Street Journal, May 23, 1991]

RALLY ROUND THE GIBBET

The battle over the effort to block the appointment of conservative scholar and traditionalist Carol Iannone to the National Council on the Humanities grows uglier—and more predictable. Her main antagonist so far has been the Modern Language Association. Carol Iannone's writings criticize the current emphasis in literary analysis on race, gender and in particular "feminist" ideology—all of which are now the lifeblood of the MLA and its various humanities satellites. For what now constitutes their world the stakes are high.

The objections, accusations, "concerned" letters and other testimonials against the candidate now pouring in to the relevant Senate committee offices have a familiar tone—the building roar of an ideological mob. Senator Pell, in his assigned role, has effectively stalled the nomination.

Among other groups in no position to know anything about the candidate's qualifications, the People for the American Way—whose brigades also saw action in the campaign against Robert Bork—has now weighed in against Ms. Iannone, with doubts about "her ability to be fair-minded."

The latest, most vocal recruit to the anti-Iannone campaign is Joel Conarroe, president of the Guggenheim Foundation. In charges recently splashed all over the Style section of the Washington Post, Mr. Conarroe accused Ms. Iannone of following in the footsteps of the anti-Semitic scholar Paul de Man.

The Guggenheim president argues rather excitedly that Ms. Iannone's appointment would be an embarrassment "to all of us who care passionately about the humanities." He attacks Ms. Iannone for having written that black writers demanded and obtained the Pulitzer Prize for Tom Morrison's novel "Beloved"—a comment Mr. Conarroe calls "arrogant, inflammatory nonsense." Carol Iannone's adversaries have conveniently neglected to mention the event to which her Pulitzer comment referred—the fact that just such a demand, signed by a group of black writers, actually appeared in the New York Times.

In the effort to paint the candidate as being inveterately hostile to all black writers, opponents of the Iannone nomination also neglect to mention that she has praised Toni Morrison's other works, and that she has been unstinting in her praise of Ralph Ellison and Nigerian novelist Chinua Achebe. We confess that none of this much surprises us since it is by now clear that in the world of the politically correct a fact is the most irrelevant of commodities.

The executive director of the Modern Language Association, Phyllis Franklin, who has been leading the fight against the nominee on behalf of the MLA's executive council, has all along denied any concern over Ms. Iannone's political views, while assuring all and sundry that the only pertinent issue is the candidate's alleged lack of publishing credentials. Now that the smear campaign has spun into high gear, Ms. Franklin appears to have decided that the accusations of racism now being made against Ms. Iannone "raise good questions."

Carol Iannone has become a target of this sort of slander because she has refused to condescend to black artists with any of the forms of genteel racism practiced today among the literary set. It is an attitude of intellectual honesty that scholars of the humanities would do well to emulate. Senator Kennedy and fellow members of the Labor and Human Resources Committee who will pass on her nomination have an opportunity here. By accepting that nomination they also will be casting a vote against the unhibited destruction of name and reputation that now passes for political activism in so many quarters.

[From the Wall Street Journal, June 14, 1991]

PUBLISH AND PERISH

We note the latest turn in the ideological and partisan struggle over the Carol Iannone nomination to the Humanities Endowment's advisory council. Endowment Chairman Lynne Cheney took the nominee up to the Senate temple yesterday so the men could hear for themselves the woman described as insufficiently academic, as academia is defined by current standards in the organized humanities. The new turn is the report that Ms. Iannone has provided her critics with "more ammunition" by the publication of an article in the March issue of Commentary titled "Literature by Quota." We thought it was mainly in the pre-Gorbachev Soviet Union where a writer's willingness to publish her opinions under her own name provided "more ammunition" for state authorities. But this is the post-Bork era, and in various redoubts of Congress and a few other circles, published opinions are cause for professional exile.

[From the Washington Post, July 15, 1991]

BRIDGING ACADEME AND AMERICAN LIFE

(By Lynne Cheney)

As Richard Cohen points out ["Iannone: a Political Choice," op-ed, July 9], the nomination of Carol Iannone to the National Council of the Humanities has called forth an astonishing amount of ink and vituperation. The passions being expended are out of scale for a position on a part-time advisory council. The partisan divisiveness of the debate is also out-of-date, given that one of the most notable aspects of cultural life today is growing agreement among thoughtful people across the political spectrum on matters central to American intellectual life.

Take the question of what constitutes a proper academic career. Carol Iannone's opponents argue that her résumé is insufficiently distinguished to merit her confirmation to the NEH Council, and they specifically point to her having written for publications like Commentary that appeal to a general readership rather than for academic journals that are aimed at small, highly specialized audiences. Ten years ago, or even five, such a charge might have drawn sage nods throughout the academic world, but no longer. Today some of the country's most eminent scholars are endorsing Iannone's nomination: Columbia University's Jacques Barzun, the University of Chicago's Edward Shils, classics scholar and Yale dean Donald Kagan, and Northwestern University's Joseph Epstein. These academics and the many others who support Iannone praise the lucid, well-argued essays she writes for journals that are widely read.

In recent years there has been a growing realization of how isolated the academic world has become from the rest of society and how both are poorer as a result: The academy loses its grounding in the larger culture, and society as a whole loses the rich understandings that can come from the knowledge of scholars. To overcome the split between the two cultures, scholars are needed who do what Carol Iannone does: write clearly and thoughtfully about intellectual issues for nonacademic audiences.

In his newest work, "Scholarship Reconsidered," Ernest Boyer argues at length for an expanded notion of scholarly life—one that includes writing for the public—and this idea has been embraced across the political spectrum. Russel Jacoby, a critic from the left, makes the point eloquently in his 1987 work, "The Last Intellectuals." Distinguished historian Gertrude Himmelfarb, a conservative, applies it specifically to Carol Iannone, writing to the Senate that "She would bring to the [NEH] council precisely what is now most urgently needed: the ability to bridge the gap between the academy and the literate public."

Another aspect of the Iannone nomination that should allow people to ovecome partisanship has to do with her freedom to express her opinions. Her ideas are very traditional. She thinks that scholarship ought to try to rise above politics, for example. Often her views run against the grain of fashionable thinking on our campuses, but as The Post has noted [editorial, May 20], "They are well within the zone of what is or ought to be permissible discourse." Nevertheless, just as there have been efforts on our campuses to limit free expression in the name of harmony, so too there have been suggestions that the opinions of NEH, council members ought to fall within a certain range—one that would exclude Carol Iannone.

Fortunately, the idea that the academic world should become party to narrowing the range of permitted expression in our society is being challenged both by conservative critics like Dinesh D'Souza and by scholars such as James David Barber, a former president of Amnesty International and Eugene Genovese, an historian who writes from a Marxist perspective. Free speech is a cause that is uniting people from across the political spectrum, and almost daily there is a new and vigorous defense of it. Yale President Benno Schmidt warns that "on many campuses; freedom of thought is in danger." Harvard's David Riesman denounced a "closed-mindedness" in which "everybody is supposed to go along with the so-called virtuous position." Historian C. Vann Woodward calls upon scholars to "rally to the defense of free speech." Columnist and ACLU

veteran Nat Hentoff writes specifically of Carol Iannone and warns of the chilling effect of free speech if she should be rejected by the Senate for her independent views.

Indeed, the single most important movement in the cultural world today may well be the growing alliance of thoughful people from the left and right. They are coming together to urge an expansive vision of the scholarly life and to defend the right of scholars like Carol Iannone to express themselves freely. It is earnestly to be hoped that members of the Senate's Labor and Human Resources Committee can similarly unite—and confirm Dr. Iannone to the National Council on the Humanities.

EXECUTIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 190, Nancy Patricia Dorn, to be Assistant Secretary of the Army.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, 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 nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Nancy Patricia Dorn, of Texas, to be an Assistant Secretary of the Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 157. An act to name the Post Office building located at 200 3rd Street, S.W., in Taylorsville, North Carolina, as the "Clifford G. Watts Post Office Building";

H.R. 158. An act to designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building";

H.R. 998. An act to designate the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service as the "John Richard Haydel Post Office Building";

H.R. 1216. An act to modify the boundaries of the Indiana Dunes National Lakeshore and for other purposes;

H.R. 2014. An act to designate the United States Post Office Building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building"; and

H.R. 2347. An act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility", and for other purposes.

The message also announced that pursuant to the provisions of section 406(a) of Public Law 102-62, the Speaker appointed from private life Ms. Eva L. Baker of Sherman Oaks, CA, to the National Council on Education Standards and Testing on the part of the House.

The message further announced that pursuant to the provisions of section 406(a)(5) of Public Law 102-62, the minority leader appoints Dr. Sally B. Pancrazio from private life as a member of the National Council on Education Standards and Testing on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 157. An act to name the Post Office building located at 200 3rd Street, S.W., in Taylorsville, North Carolina, as the "Clifford G. Watts Post Office Building"; to the Committee on Governmental Affairs.

H.R. 158. An act to designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building"; to the Committee on Governmental Affairs.

H.R. 1216. An act to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2014. An act to designate the United States Post Office Building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building"; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1283. A bill to authorize extensions of time limitations in certain FERC-issued Licenses (Rept. No. 102-109).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 992. A bill to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 15, June 3, June 24, and July 8, 1991, at the end of the Senate proceedings.)

*In the Air Force Reserve there are 20 appointments to the grade of major general (list begins with Earl A. Aler, Jr.) (Reference No. 327).

**In the Air Force Reserve there is 1 appointment to the grade of lieutenant colonel (Aurora T. Maldonaldo) (Reference No. 344).

**In the Air Force Reserve there are 5 appointments to the grade of lieutenant colonel (list begins with Norman Arends) (Reference No. 345).

**In the Air Force Reserve there are 27 promotions to the grade of lieutenant colonel (list begins with John W. Anderson) (Reference No. 346).

*In the Air Force there is 1 promotion to the grade of major (Rosa L. Sandwellweiss) (Reference No. 347).

*In the Air Force Reserve there are 58 promotions to the grade of colonel (list begins with Richard M. Anders) (Reference No. 380).

*General John W. Foss, USA to be placed on the retired list in the grade of general (Reference No. 412).

*Lieutenant General Joseph P. Hoar, USMC to be general (Reference No. 416).

*Lieutenant General Ernest T. Cook, Jr., USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 417).

*Major General Royal N. Moore, Jr., USMC to be lieutenant general (Reference No. 420).

*Lieutenant General Thurman D. Rodgers, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 435).

**In the Army there are 11 promotions to the grade of colonel and below (list begins with Dennis J. Fringeli) (Reference No. 426).

*General H. Norman Schwarzkopf, USA to be placed on the retired list in the grade of general (Reference No. 445).

*Major General Henry C. Stackpole III, USMC to be lieutenant general (Reference No. 447).

*Lieutenant General James R. Hall, Jr., USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 458).

**In the Air Force there are 21 appointments to the grade of colonel and below (list

begins with Frank E. Carpenter) (Reference No. 460).

**In the Air Force Reserve there are 37 promotions to the grade of lieutenant colonel (list begins with Reese R. Armstrong) (Reference No. 461).

**In the Army Reserve there are 27 promotions to the grade of colonel and below (list begins with Maynard K. Bean) (Reference No. 462).

**In the Navy and Naval Reserve there are 39 appointments to the grade of commander and below (list begins with James M. Castleberry) (Reference No. 463).

Total: 255.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DANFORTH (for himself, Mr. BOND, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. MACK, Mr. COCHRAN, Mr. NUNN, Mr. AKAKA, Mr. GORE, Mr. COATS, Mr. FOWLER, Mr. HARKIN, Mr. HOLLINGS, Mr. SANFORD, Mr. ADAMS, Mr. SHELBY, Mr. BREAUX, Mr. JOHNSTON, Mr. BENTSEN, and Mr. D'AMATO):

S. 1476. A bill to recognize the organization known as the Shepherd's Centers of America, Incorporated; to the Committee on the Judiciary.

By Mr. LEAHY (for Mr. PRYOR (for himself, Mr. ADAMS and Mr. LEAHY)):

S. 1477. A bill to amend the Older Americans Act of 1965 to improve nutrition services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KASTEN:

S. 1478. A bill to provide reasonable price enhancement to milk producers, greater milk price stability, and minimum income protection to milk producers, to establish certain minimum standards regarding milk solids, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE (for himself, Mr. GRASSLEY, Mr. DOLE, Mr. BURDICK, Mr. AKAKA, Mr. HARKIN, Mr. DECONCINI, Mr. CONRAD, Mr. KERREY, Mr. HATFIELD, Mr. SIMPSON, Mr. CRAIG, and Mr. COCHRAN):

S. 1479. A bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 1480. A bill to establish the United States Census Commission; to the Committee on Governmental Affairs.

By Mr. CONRAD:

S. 1481. A bill to amend the Older Americans Act of 1965 to establish separate long-term care ombudsman and transportation programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S.J. Res. 179. A bill to designate the week beginning August 25, 1991, as "National Parks Week"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 180. A joint resolution designating December 1 through 7, 1991, as "Geography Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself and Mr. STEVENS):

S. Res. 154. A resolution relating to the purchase of calendars; considered and agreed to.

By Mr. SPECTER (for himself, Mr. MURKOWSKI, Mr. HOLLINGS, Mr. BREAUX, Mr. CRAIG, Mr. AKAKA, Mr. FORD, Mr. MCCAIN, Mr. COHEN, Mr. DIXON, Mr. INOUYE, Ms. MIKULSKI, Mr. COATS, Mr. COCHRAN, Mr. BROWN, Mr. SHELBY, Mr. BRADLEY, Mr. GORTON, Mr. CONRAD, Mr. SARBANES, Mr. METZENBAUM, Mr. PACKWOOD, Mr. LIEBERMAN, Mr. SIMON, Mr. SYMMS, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. SMITH, Mr. REID, Mr. JOHNSTON, Mr. SEYMOUR, Mr. ROBB, Mr. MACK, Mr. NICKLES, Mr. LOTT, Mr. WALLOP, Mr. D'AMATO, Mr. DECONCINI, Mr. GRASSLEY, Mr. DODD, Mr. GRAMM, Mr. RIEGLE, Mr. HATCH, Mr. WOFFORD, Mr. LAUTENBERG, Mr. BURDICK, Mr. GRAHAM, Mr. HEFLIN, Mr. GORE, Mr. LEVIN, Mr. DASCHLE, Mr. HELMS, Mr. SASSER, and Mr. ADAMS):

S. Con. Res. 53. A concurrent resolution expressing the sense of the Congress that the 1981 Israeli preemptive strike against Iraqi nuclear reactor at Osirak was legitimate and justifiable exercise of self-defense, and that the United States should seek the repeal of United Nations Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike; to the Committee on Foreign Relations.

By Mr. DODD (for himself, Mr. WELLSTONE, Mr. SIMON, Mr. CRANSTON, Mr. PELL, Mr. JEFFORDS, and Mr. KENNEDY):

S. Con. Res. 54. A concurrent resolution expressing the sense of the Congress regarding the provision of medical and humanitarian assistance to Iraqi families and children in greatest need; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH (for himself, Mr. BOND, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. MACK, Mr. COCHRAN, Mr. NUNN, Mr. AKAKA, Mr. GORE, Mr. COATS, Mr. FOWLER, Mr. HARKIN, Mr. HOLLINGS, Mr. SANFORD, Mr. ADAMS, Mr. SHELBY, Mr. BREAUX, Mr. JOHNSTON, Mr. BENTSEN, and Mr. D'AMATO):

S. 1476. A bill to recognize the organization known as the Shepherd's Centers of America, Incorporated; to the Committee on the Judiciary.

SHEPHERD'S CENTERS OF AMERICA, INCORPORATED

Mr. DANFORTH. Mr. President, I am introducing legislation to grant a Federal charter to the Shepherd's Centers of America [SCA]. The Shepherd's Center of America is a national association of not-for-profit centers which provide a wide range of activities to encourage older Americans to enhance their knowledge, share their talents with others, and remain active in their communities.

More Americans than ever before are reaching old age. Over 28 million are now 65 years or older and by the year 2000 this number will increase significantly. This growing elderly population will demand that we look for new and innovative approaches to encourage active participation of older Americans in our society. Shepherd's Centers are responding to these challenges.

The mission of Shepherd's Centers is to improve the quality of life for older people. Shepherd's Centers enable frail people to continue living in their own homes and apartments. They help people adopt healthy lifestyles, use the health care system appropriately, and find peer support for chronic illness. They offer opportunities for lifelong learning, personal growth, and responsible citizenry. And they promote the building of strong and lasting friendships that buffer the challenges and losses of the later years.

To carry out this mission, Shepherd's Centers enable older people to use their wealth of life experience in leadership and volunteer roles. Volunteers are delivering hot meals, providing respite care to families caring for older parents, taking homebound elders to the grocery store and doctor, as well as directing a variety of programs that enrich the later years.

The Shepherd's Center model of older adults helping older adults represents a vital response to the unprecedented growth of the older population. It has proven cost effective and highly sensitive to the needs of older adults. Shepherd's Centers are not-for-profit organizations funded totally by their communities. They are essential to bridge the gap between community needs and the professional care system.

Today, this innovative volunteer movement is at an exciting threshold. This model, which began in Kansas City, MO, in 1972 has been replicated in 96 communities in 26 States. A Federal charter would provide the Shepherd's Center of America greater visibility and increase its thrust nationwide.

By Mr. LEAHY (for Mr. PRYOR, for himself, Mr. ADAMS, and Mr. LEAHY):

S. 1477. A bill to amend the Older Americans Act of 1965 to improve nutrition services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SENIOR NUTRITION ACT OF 1991

Mr. LEAHY. Mr. President, on behalf of Senator PRYOR, I am pleased to introduce the Senior Nutrition Act of 1991. As chairman of the Senate Special

Committee on Aging, Senator PRYOR has demonstrated his deep commitment to ensuring the well-being of the senior citizens of this country. Nowhere has this commitment been more evident than in the area of health and nutrition. Senator PRYOR has worked closely with the Senate Agriculture, Nutrition, and Forestry Committee in developing this legislation, and I am honored to cosponsor the Senior Nutrition Act.

On February 15, 1991, the Senate Special Committee on Aging and the Senate Agriculture, Nutrition, and Forestry Committee held a joint legislative workshop with a wide variety of experts on elderly nutrition. This workshop provided valuable recommendations, many of which are embodied in the Senior Nutrition Act.

Older Americans with limited resources are often hit very hard by financial crises, and often, their nutrition health suffers. The effect of malnutrition on the elderly is a significant factor in the rising health care costs in this country.

Although low-income elderly do participate in a variety of Federal nutrition programs, many do not take advantage of these resources. The 1990 "Elderly Programs Study," issued by the U.S. Department of Agriculture, concludes that major USDA food assistance programs are reaching only about half of the eligible low-income elderly.

Funding shortages threaten food programs that serve hundreds of thousands of older Americans suffering from nutrition-related health problems. Right now, we have to choose between cutting corners on nutrition and cutting needy people from the program. Our bill stops this intolerable choice.

The Senior Nutrition Act takes critical steps to improve the quality of eldrly nutrition. It makes an annual inflation adjustment of the USDA elderly meals reimbursement rate for the first time in 4 years, thus enabling programs to provide higher quality foods. The bill also establishes an elderly nutrition task force to set minimum standards for meals funded by the Older Americans Act, requires senior nutrition projects to comply with "Dietary Guidelines for Americans," and contains important provisions on nutrition education and technical assistance.

I wish to thank Senator PRYOR for his leadership on this issue, and I look forward to continuing to work with him and the Special Committee on Aging as we address the special nutritional problems of the low-income elderly.

Mr. President, I ask unanimous consent that the bill, letters of support, and a letter from Senator PRYOR, asking me to introduce this bill be printed in the RECORD at the appropriate place.

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

S. 1477

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 "Senior Nutrition Act of 1991".

SEC. 2. GENERAL NUTRITION SERVICES PROVISIONS.

Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—General Nutrition Service Provisions

"SEC. 339. DIETARY PROFESSIONALS.

"(a) IN GENERAL.—The Commissioner shall ensure that the Administration shall employ at least one individual as a National Dietary Professional on a full-time basis.

"(b) QUALIFICATIONS.—The National Dietary Professional shall—

"(1) have experience in nutrition services and dietary services; and

"(2)(A) be a registered dietitian;

"(B) be a credentialed nutrition professional; or

"(C) have education and training that is substantially equivalent to the education and training for a registered dietitian or a credentialed nutrition professional.

"(c) DUTIES.—

"(1) NATIONAL DIETARY PROFESSIONAL.—The National Dietary Professional shall be responsible for the administration of the congregate and home delivered nutrition services programs described in subparts 1 and 2, respectively, and shall have duties that include—

"(A) designing, implementing, and evaluating nutrition programs;

"(B) developing guidelines for nutrition providers concerning safety, sanitary handling of food, equipment, preparation, and food storage;

"(C) disseminating information to nutrition service providers about nutrition advancements and developments;

"(D) promoting coordination between nutrition service providers and community based organizations serving older individuals;

"(E) developing guidelines on cost containment;

"(F) defining a long range role for the nutrition services in community based care systems;

"(G) developing model menus and other appropriate materials for serving special needs populations and meeting cultural meal preferences; and

"(H) providing technical assistance to the regional offices of the Administration with respect to each duty described in subparagraphs (A) through (G).

"(2) REGIONAL OFFICES.—The regional offices of the Administration shall be responsible for disseminating, and providing technical assistance regarding, the guidelines and information described in subparagraphs (B), (C), and (E) of paragraph (1) to State agencies, area agencies on aging designated under section 305(a)(2)(A), and persons that provide nutrition services under this part.

"SEC. 339A. MINIMUM CRITERIA AND GUIDELINES FOR NUTRITION SERVICES.

"(a) TASK FORCE.—

"(1) IN GENERAL.—The Commissioner shall establish a task force to develop recommendations for minimum criteria and guidelines of efficiency and quality for furnishing congregate and home delivered nutrition services, as described in subparts 1 and 2, respectively.

"(2) COMPOSITION OF TASK FORCE.—The task force shall be composed of members appointed by the Commissioner from among individuals nominated by the Secretary of Agriculture, the American Dietetic Association, the National Association of Nutrition and Aging Service Programs, the National Association of Meal Programs, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, and other appropriate organizations.

"(3) REPORT.—Not later than January 1, 1993, the task force shall submit a report to the Commissioner containing the recommendations described in paragraph (1).

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than June 30, 1993, the Commissioner, in consultation with the Secretary of Agriculture, shall promulgate regulations establishing minimum criteria and guidelines for furnishing the congregate and home delivered nutrition services described in subparts 1 and 2.

"(2) BASIS.—The regulations shall reflect, to the extent determined appropriate by the Commissioner, the recommendations described in subsection (a)(1).

"SEC. 339B. NUTRITION EDUCATION.

"The Commissioner and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 307(a)(13)(J).".

SEC. 3. DIETARY GUIDELINES.

(a) CONGREGATE NUTRITION SERVICES.—Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—

(1) by inserting "(a)" after the section designation;

(2) in subsection (a) (as designated by paragraph (1) of this subsection), by striking ", each of which" and all that follows through "National Research Council"; and

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

"(b) An agency that establishes and operates a nutrition project under subsection (a) shall ensure that the meals provided through the project—

"(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

"(2) provide a 5-day time-averaged intake of—

"(A) 33⅓ percent of the daily recommended dietary allowances, as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the project serves one meal each day;

"(B) 66⅔ percent of the allowances, if the project serves two meals each day; and

"(C) 100 percent of the allowances, if the project serves three meals each day.".

(b) HOME DELIVERED NUTRITION SERVICES.—Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended—

(1) by inserting "(a)" after the section designation;

(2) in paragraph (1) of subsection (a) (as designated by paragraph (1) of this subsection), by striking ", each of which" and all that follows through "National Research Council"; and

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

"(b) An agency that establishes and operates a nutrition project under subsection (a) shall ensure that the meals provided through the project—

"(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

"(2) provide a 5-day time-averaged intake of—

"(A) 33⅓ percent of the daily recommended dietary allowances, as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences;

"(B) 66⅔ percent of the allowances, if the project serves 2 meals each day; and

"(C) 100 percent of the allowances, if the project serves 3 meals each day.".

SEC. 4. NUTRITION EDUCATION AND SANITARY HANDLING OF MEALS.

Section 307(a)(13) (42 U.S.C. 3027(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (H);

(2) by striking the period at the end of subparagraph (I) and inserting a semicolon; and

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

"(J) each nutrition project shall provide nutrition education on at least a quarterly basis to participants in the congregate and home delivered nutrition services programs described in subparts 1 and 2, respectively; and

"(K) each project must comply with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older person.".

SEC. 5. AVAILABILITY OF SURPLUS COMMODITIES.

Section 311 (42 U.S.C. 3030a) is amended—

(1) in the first sentence of subsection (a)(4), by striking "shall maintain" and all that follows through "1991", and inserting "shall maintain a level of assistance of 56.76 cents per meal, which shall be adjusted on an annual basis on October 1 of each year to the nearest one-fourth cent, in accordance with changes in the series for food away from home, of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor, for the 12-month period ending on July 1 of the preceding year"; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "$151,000,000" and all that follows through "1991" and inserting "$220,000,000 for fiscal year 1992, $235,000,000 for fiscal year 1993, $250,000,000 for fiscal year 1994, and $265,000,000 for fiscal year 1995"; and

(B) in paragraph (2)—

(i) by striking "(2) In" and inserting "(2)(A) Except as provided in subparagraph (B), in"; and

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

"(B) To the extent feasible, the cents per meal level described in subparagraph (A) shall not be reduced below 56.76 cents per meal in any fiscal year.".

U.S. SENATE,
Washington, DC, July 16, 1991.

Hon. PATRICK LEAHY,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you very much for offering to introduce on my behalf the "Senior Nutrition Act of 1991". As I am continuing my recovery from a recent heart attack, I am unable to be in Washington to introduce the bill at this time. It is a special honor for me that my proposed modifications of Older Americans Act (OAA) feeding programs will be introduced by a colleague whose record of unflagging commitment to federal nutrition programs serving the needy is second to none.

I am also honored to learn that our colleague Senator Adams, Chairman of the Aging Subcommittee of the Senate Labor and Human Resources Committee, is an original cosponsor of "The Senior Nutrition Act of 1991". As you know, Senator Adams has shown extraordinary leadership during this year's OAA reauthorization process and has proposed significant changes in the Act that will promote the dignity and independence of all senior citizens.

On February 15, 1991, the Senate Special Committee on Aging and the Senate Agriculture, Nutrition, and Forestry Committee held a joint legislative workshop examining, in part, issues surrounding reauthorization of congregate and home-delivered nutrition services under the OAA. The workshop brought together a wide variety of individuals, including academics; federal, state and local government officials; members of the Aging Network; nutrition providers; representatives of national aging organizations; and nutrition professionals, among others. Workshop participants engaged in a lively and constructive discussion regarding elderly nutrition and submitted numerous recommendations for improvement of OAA services.

Based upon many of these workshop recommendations, I drafted "The Senior Nutrition Act of 1991" which, if enacted, will (1) support and expand congregate and home-delivered nutrition services for elderly Americans and (2) improve the quality, safety, and wholesomeness of meals served by OAA-supported nutrition programs.

Specifically, my bill contains the following provisions:

Makes an annual adjustment for inflation of the U.S.D.A. per-meal reimbursement rate of 56.76 cents, which has been frozen at that level for past four years.

Requires the appointment of a National Dietary Professional (who must be a registered dietician or person with a similar educational background) within the Washington office of the Administration on Aging AoA) and directs regional offices of AoA to provide technical assistance regarding nutrition services to state units on aging, area agencies on aging, and nutrition providers.

Directs AoA and the Secretary of Agriculture to establish a task force (which will include representatives of major national nutrition organizations) to develop minimum standards for the storage, handling, and preparation of meals funded under the OAA.

Requires each OAA-funded feeding program to provide nutrition education on at least a quarterly basis.

Requires senior nutrition projects to comply with the Dietary Guidelines for Americans.

Grants elderly nutrition projects greater flexibility in meeting the requirement that all meals supply ⅓ of the recommended daily allowances of nutrients (RDAs).

Assures that all senior nutrition programs comply with applicable state and local health and safety regulations.

I am also pleased to learn that several major aging and nutrition organizations support my proposal, including the National Association of Nutrition and Aging Services Programs, National Association of Meal Programs, National Association of State Units on Aging, National Association of Area Agencies on Aging, American Dietetic Association, National Council of Senior Citizens, and Families, U.S.A. You will find attached correspondence from some of these organizations.

Mr. Chairman, assuring an adequate and nutritious diet for our nation's elderly is a goal that all Americans share. Unfortunately, many vulnerable elders have health problems and limited financial resources which could place them at nutritional risk. It has been estimated that 83% of the elderly who are unable to perform three or more activities of daily living have incomes at or below 200% of the poverty line.

OAA nutrition services have proven effective in enhancing the nutritional status of senior participants. As noted in a 1990 U.S.D.A study of elderly nutrition programs, "[t]he dietary intake of several critical nutrients is greater for [OAA] meal program participants than for nonparticipants."

Moreover, OAA programs primarily serve vulnerable, low-income elders. For example, according to data gathered by AoA, in 1988, 51% of all persons utilizing congregate sites and 59% of those receiving home-delivered meals had incomes below the poverty line. A recent study conducted by the National Association of Nutrition and Aging Service Programs (NANASP) found that 40.2% of home-delivered meal recipients and 26.0% of congregate site participants were 80+ years old, the fastest growing and often most vulnerable segment of the senior population.

Despite the acute need for expanded OAA nutrition services, I continue to receive disturbing reports that many senior meal programs across the country are closing their doors and/or maintaining long waiting lists for home-delivered meals. A recent survey of 273 NANASP members found that 20.5% of the respondent projects had closed at least one congregate meal site in 1990 and that 20.1% intended to shut down one or more sites in 1991. Twenty-two percent of the respondents indicated their intent to reduce the number of home-delivered meals they will provide this year, and 47.3% reported maintaining waiting list for their home-delivered meals programs.

I believe "The Senior Nutrition Act of 1991" is a significant proposal which will bolster federal support for elderly nutrition projects and improve the quality and safety of meals served by OAA-funded agencies. Mr. Chairman, thank you again for your courtesy in introducing this important measure on my behalf.

Sincerely,

DAVID PRYOR.

FAMILIES UNITED FOR SENIOR ACTION,
Washington, DC, July 15, 1991.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: I am very pleased to have the opportunity to provide the full support of Families USA for your legislation, the Senior Nutrition Act of 1991.

Your bill will make substantial improvements in nutritional programs operated for the elderly under the Older Americans Act, one of the most important of which is to index the USDA commodity entitlement to the rate of inflation. Other provisions in your bill will help improve the quality and nutritional value of the meals provided under this important program.

Thank you again for your leadership and your constructive approach to these longstanding problems. My staff and I look for-

ward to working with you toward speedy enactment of this thoughtful proposal.

Sincerely,

RONALD F. POLLACK,
Executive Director.

NATIONAL ASSOCIATION OF NUTRITION AND AGING SERVICES PROGRAMS,
Grand Rapids, MI, July 16, 1991.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: The National Association of Nutrition and Aging Services Programs (NANASP) fully endorses the "Senior Nutrition Act of 1991" as introduced by your office.

Such an act recognizes the vital role that nutrition services play within the Older Americans Act, and in the lives of millions of older adults each and every day.

The "Senior Nutrition Act of 1991" will make substantive improvements in the quality and availability of services nationwide. It demonstrates insight to the needs of the elderly and those programs they depend on for help in maintaining their independence and dignity.

NANASP applauds your efforts on behalf of our nations elderly and extends its full cooperation to you in helping to build a comprehensive system of services to meet the needs of a growing elderly population.

Very Truly Yours,

JOHN P. WREN,
President.

NATIONAL ASSOCIATION OF MEAL PROGRAMS,
Washington, DC, July 15, 1991.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: The National Association of Meal Programs appreciates your leadership in drafting the Senior Nutrition Act of 1991. We have reviewed the draft legislation and it has our wholehearted support.

Please let us know how we can assist you in moving the legislation forward.

Sincerely,

GAIL H. MARTIN,
Executive Director.

By Mr. KASTEN:

S. 1478. A bill to provide reasonable price enhancement to milk producers, greater milk price stability, and minimum income protection to milk producers, to establish certain minimum standards regarding milk solids, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY FAMILY FARM RESCUE ACT

• Mr. KASTEN. Mr. President, I rise today to introduce legislation that I believe will help restore some market stability so desperately needed by America's dairy farmers.

As I have repeated over and over again on this floor, family farmers in the dairy community are going bankrupt daily. It is estimated that in Wisconsin alone some 4,000 farmers will go out of business this year, if we do not act immediately to bring some reform to dairy farmers.

It is estimated that one business is lost for every seven farmers that go bankrupt. I hope that my colleagues understand that dairy reform has a major impact on the entire economic stability of rural America.

Mr. President, it is essential that the inside the beltway corps heed the advice and wisdom of those who know best about the commodity they produce for millions of Americans—the dairy farmers themselves.

Four farmers from my State of Wisconsin recently completed an extraordinary effort to help me develop legislation that will provide reasonable price increases to dairy family farmers, greater milk price stability, and minimum income protection.

Mr. President, let me explain some of the major components of my bill. My bill will raise the milk price support level from $10.10 to $12.63 through the remainder of 1991. The price support level is based on the average cost of production as reported by the Department of Agriculture.

If, after 1991, the price farmers receive for their milk is below the price of producing that milk for 4 consecutive months, the Secretary shall raise the price support level to a rate that is equal to the cost of production of milk.

If the Secretary increases the support level and subsequently determines that the average price farmers receive for their milk is at least 15 percent above the cost of production for 4 consecutive months, the Secretary could decrease the price support level.

A two-tier price program will only be used in times of surplus milk. When the two-tier price program is in effect, a producer would receive two prices for milk. One price will be received for the full market price for that portion of milk needed to meet consumer needs. A separate, much lower price will be paid to farmers marketing milk in excess of consumer needs, to discourage farmers from overproduction.

Finally, my bill will increase the total solids standards in milk. Raising the solids will increase the protein, calcium, and other nutritional components in milk to the standards used by California for the past 25 years. Several important reports have been issued that recommend increased consumption of foods high in calcium, as part of a healthy diet for adolescents and young adults, and to help decrease the risk of osteoporosis. Osteoporosis afflicts 24 million Americans, half of which are women over 45 years of age.

Mr. President, raising the solids standards in milk will save the government money by reducing the government surplus.

My bill treats all farmers across the country equally. Many other bills I have seen exempt certain regions from two-price systems. Regional discrimination will bring more problems to the dairy program.

In fact, a 1988 GAO report on milk marketing orders stated, and I quote, "the Federal milk marketing order system has contributed to the national milk surplus and benefited producers in some regions of the country at the expense of others. The justifications for Federal marketing order pricing policies are outdated because dairy market conditions have changed." Mr. President, you can easily see that regional discrimination will do nothing but create a nightmare to the reform process.

I believe my bill represents sound policy and will be successful in controlling surpluses and government costs. I hope my colleagues will join with me in cosponsoring this bill.•

By Mr. INOUYE (for himself, Mr. GRASSLEY, Mr. DOLE, Mr. BURDICK, Mr. AKAKA, Mr. HARKIN, Mr. DECONCINI, Mr. CONRAD, Mr. KERREY, Mr. HATFIELD, Mr. SIMPSON, Mr. CRAIG, and Mr. COCHRAN):

S. 1479. A bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes; to the Committee on Labor and Human Resources.

REAUTHORIZATION OF CERTAIN RURAL HEALTH PROGRAMS

• Mr. INOUYE. Mr. President, I am pleased to join my colleagues Senator GRASSLEY, Senator BURDICK, Senator DOLE, Senator AKAKA, Senator HARKIN, Senator HATFIELD, Senator SIMPSON, Senator KERREY, Senator CONRAD, Senator DECONCINI, Senator CRAIG, and Senator COCHRAN, in introducing legislation to amend the Public Health Service Act to reauthorize certain rural health programs and to provide for the establishment of model programs in behavioral health, and for other purposes.

This legislation will continue funding for innovative interdisciplinary projects with creative designs to train health care practitioners such as nurses, psychologists, and social workers. The new training programs would incorporate education and research with the actual delivery of health care services in rural areas.

The recently published report from the Office of Technology Assessment states that the basic health indicators show rural residents have overall lower mortality rates than urban counterparts, but that rural residents have higher infant mortality rates, higher rates of chronic disease, and a striking 40 percent higher rate of deaths which result from accidents. In the mental health arena, alcohol dependence is significantly higher among rural residents than urban residents, and rural teens report more drinking and driving than urban residents.

This bill provides the differing health care disciplines the unique opportunity to join forces in designing model pro-

grams that can make a tremendous impact on the entire rural community in the areas of health promotion, disease prevention, and environmental safety consciousness.

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. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RURAL HEALTH PROGRAMS AND MODEL PROGRAMS IN BEHAVIORAL HEALTH.

Section 799A of the Public Service Act (42 U.S.C. 295j) is amended—

(1) in subsection (b)(1), to read as follows:

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to—

"(A) fund interdisciplinary training projects designed to—

"(i) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(ii) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(iii) deliver health care services to individuals residing in rural areas;

"(iv) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(v) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners; or

"(B) fund the operation of model programs that are designed to—

"(i) conduct interdisciplinary research, including research into the social and psychological processes involved in health-related decisionmaking, the perception of assessments of risk, and health risk reduction; and

"(ii) deliver health care promotion and disease prevention services to individuals residing in rural areas.";

(2) in subsection (c), to read as follows:

"(c) ELIGIBLE APPLICANTS—Applicants eligible to obtain funds under subsection (a) shall include local health departments, public and nonprofit organizations (including organizations such as cooperative extension services) and public or nonprofit colleges (including community colleges), universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, physical therapy, and allied health professions, if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.";

(3) in subsection (d)—

(A) in paragraph (3)—

(i) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(ii) by striking "(3) REQUIREMENTS.—Applications submitted under this subsection shall—" and inserting the following:

"(3) REQUIREMENTS.—

"(A) INTERDISCIPLINARY TRAINING PROJECTS.—Applications submitted under this subsection to carry out the interdisciplinary training projects described in subsection (b)(1)(A) shall—"; and

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

"(B) MODEL PROGRAMS.—Applications submitted under this subsection to establish or operate the programs described in subsection (b)(1)(B) shall—

"(i) be jointly submitted by applicants representing at least two disciplines; and

"(ii) contain a design of model programs for rural populations, with a focus on illness prevention and health promotion, which may include programs in areas such as:

"(I) Rehabilitation.

'(II) Health concerns of minorities or economically disadvantaged individuals.

"(III) Environmental health.

"(IV) Women's health.

"(V) Infant, prenatal, and developmental care.

"(VI) Adolescent health.

"(VII) The process of health-care seeking, decisionmaking, and compliance behavior.

"(VIII) Developmental life span perspective.

"(IX) Rural occupational health and safety.

"(X) Another area determined to be appropriate by the Secretary."; and

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

"(4) PRIORITY.—In determining whether to provide assistance under this section to an applicant, the Secretary shall give priority to applicants desiring to continue interdisciplinary training projects described in subsection (b)(1)(A) that were funded under this section not later than the date of the enactment of this paragrams.

(4) in subsection (g), insert ", and the Pacific Basin" before the period; and

(5) in subsection (h), to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $10,000,000 for fiscal year 1992, of which $2,000,000 shall be available to carry out subsection (b)(1)(B);

"(2) $15,000,000 for fiscal year 1993, of which $3,000,000 shall be available to carry out subsection (b)(1)(B); and

"(3) $15,000,000 for fiscal year 1994, of which $4,000,000 shall be available to carry out subsection (b)(1)(B).".●

● Mr. GRASSLEY. Mr. President I am joining with Senators INOUYE, BURDICK, DOLE, AKAKA, HARKIN, HATFIELD, SIMPSON, KERREY, CONRAD, DECONCINI, CRAIG and COCHRAN to introduce legislation to reauthorize what I believe is an innovative and valuable rural health program.

This legislation would continue a program designed to address a number of health care problems characteristic of rural communities.

It tries to get at the shortage of health care personnel in rural communities by stimulating, through grants, long-term collaborative relationships between teaching institutions and health care providers in rural communities.

It would do this by making the establishment of such a relationship a condition of participating in the program. The idea is that if beginning health care workers actually practice in a rural community with established practitioners not only will they be providing health care for the term of the grant, but they could also decide to stay in that community or to practice in some other rural community.

Our legislation also tries to get at some of the special health problems more prevalent in rural areas than in urban areas. It is well known, for instance, that there are more accidents in rural areas than in urban areas, and that the death rates in rural areas from accidents are considerably higher than in urban areas. This reflects the fact that agriculture is one of our most dangerous occupations. There can also be different environmental health problems in rural areas than in urban areas. For instance, in my own State of Iowa much concern has been generated in recent years about ground water pollution from chemicals used in agriculture, and the possible health threats it presents.

In any case, the program which would be reauthorized by this legislation places a strong emphasis on health care promotion and disease prevention services to individuals residing in rural communities. It also emphasizes the importance of focusing on rural occupational health and safety and environmental health concerns.

Finally, the program established by the legislation will give priority to projects emphasizing innovative ways of providing health care in rural areas, where it is often more difficult to provide health care because of the distances individuals must go to reach health care providers or facilities. These include projects which demonstrate innovative methods to provide access to cost-effective comprehensive health care in rural areas and projects to use innovative methods to train rural health practitioners.

The amounts authorized for this program are $10 million for fiscal year 1992, $15 million for fiscal year 1993, and $15 million for fiscal year 1994.

I just want to add for the record that this program was originally developed by Senator INOUYE with the assistance of Senator BURDICK and myself during the 100th Congress, and became part of Public Law 100-607.●

By Mr. MOYNIHAN:

S. 1480. A bill to establish the U.S. Census Commission; to the Committee on Governmental Affairs.

U.S. CENSUS COMMISSION ESTABLISHMENT ACT

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that would establish a much needed body, a 14-member panel that would explore the question of adjusting the census. We have heard about serious problems in the 1990 enumeration, and the disproportionate undercount of minorities remains intractable. There are statistical methods to correct the count. Yet there are knowledgeable people on both sides of this controversy, some of whom say we

do not have the statistical prowess to get a better count than we get with the traditional headcount.

The controversy is heated, and it will undoutedly be more so next time. The statistical methods will be more refined, the Census Bureau's enumeration techniques will be better, and the economic stakes will be higher.

Preparations have already begun for the 2000 census. The time to begin to resolve the question of adjustment is now. We must not again find ourselves with the Secretary of Commerce deciding half a year after the new appointment is announced whether or not he will change it. We must not have a disclaimer on all the new data that it may not be final. Whatever changes are made in the enumeration process must be planned for well in advance. So this year, Mr. President, we must establish an independent, nonpartisan panel to take a thorough look at the outcome of the 1990 census and ways to improve the next one.

The Commission I propose would have six members appointed by the President, four by the Speaker of the House, and four by the Senate majority leader. No member could be a Government employee or official. The specific duties of the commission would be to study the methods of enumeration used in the 1990 census, whether and how the results of the 1990 count should be adjusted, alternative methods of enumeration that could be used, and ways to reduce the disproportionate undercount of minorities.

The question of adjustment is back in the courts. It should be settled here, rather then there. To do that we will need sound advice, for this is no easy subject. The U.S. Census Commission could give such advice, and would do so within a year. Then we would know better what should be done to improve this vital enumeration of all Americans.

With the subject still fresh in our minds, I encourage my colleagues to cosponsor this bill. It will help us make the choices that must be made if we are to have a better count next time than we got in this one.•

By Mr. CONRAD:

S. 1481. A bill to amend the Older Americans Act of 1965 to establish spearate long-term care ombudsman and transportation programs, and for other purposes; to the Committee on Labor and Human Resources.

RURAL OLDER AMERICANS ACT AMENDMENTS

• Mr. CONRAD. Mr. President, today I rise to introduce the Rural Older Americans Act Amendments of 1991. For a variety of reasons, rural senior citizens are not fully participating in programs authorized by the Older Americans Act. My bill guarantees a fair share of these opportunities to rural seniors, and also makes important changes in the act which are not specific to rural areas.

Mr. President, rural America has traditionally been underserved by many Federal programs. The Older Americans Act is no exception. According to a recent report from the Federal Commission on Aging, the total per capita Federal expenditures for rural areas is $9.04, while nonrural areas receive $19.18. This year, when the reauthorization of the Older Americans Act will come before us, we should move to address this inequity—which will only compound the hardships of rural seniors as their numbers continue to increase.

The Older Americans Act authorizes supportive and nutrition services that touch the daily lives of thousands of seniors throughout the country. The law also works to protect elder rights and is an indispensable source of employment for thousands of older Americans all across the country.

My bill consists of a series of proposals, including demonstration programs and substantive change to the act itself. Major provisions address fundamental needs and concerns of elderly citizens: Health, housing, transportation, nutrition, and elder rights.

Title I of the Rural Older Americans Act Amendments of 1991 raises the status of the Long-Term Care Ombudsman Program by identifying it in a new title. The Ombudsman Program helps ensure that those who reside in long-term care facilities receive proper medical treatment and services. Allegations of conditions that may jeopardize the health, safety, welfare, or rights of the residents must be swiftly investigated and resolved. In the new title, we aim to heighten awareness of the functions and duties of the Long-Term Care Ombudsman Program. The new title also deals with the prevention of abuse, neglect, and exploitation of older adults. And finally, elder rights and legal assistance development programs and outreach and counseling programs are addressed in this newly created title.

Other provisions of my bill address rural transportation needs. A recent study by the Community Transportation Association of America found that while elderly people comprise 14 percent of the population, 38 percent of all rural transit riders are elderly. The study also showed that over one-half of the Nation's rural residents live in areas with no federally assisted public transit services. High transportation costs in rural areas have led to the discontinuation of import services, and additional services are in danger of being eliminated. Mr. President, a majority of senior citizens depend on public transportation to shop for food, clothes, and other necessities. We have a duty to make sure that reliable public transportation for rural older Americans exists.

One of the most critical needs for older adults is access to health care facilities. Title II of my bill would set up three demonstration projects coordinating health care and transportation services. These projects will provide older adults, including those with disabilities, with access to health care facilities and other supportive services.

Turning to housing, a recent national survey found that 33 percent of rural area agencies on aging did not make adult day care available, compared to only 1.5 percent of area agencies in urban areas. The survery also found 18 percent of those rural agencies had no respite care, compared to only 3 percent in urban areas. That is a shocking disparity, Mr. President. I have seen, in my own State, senior citizens who require some degree of living assistance being forced to leave their homes and families and relocate, sometimes hundreds of miles, to areas that have proper facilities. Many of these people do not need the full services offered by these facilities, and with some assistance could live quite well at home.

Mr. President, it is wrong that our seniors do not have more options. It is wrong that grandmothers and grandfathers are forced to move great distances from their children and their grandchildren to have access to elder adult care facilities. Title III of my amendments authorizes up to 10 demonstration projects to be coordinated between the Commissioner of the Administration on Aging and the Secretary of HUD. These projects will study the various methods of improving housing options for older adults. The demonstration projects, half of which would be located in rural areas, will study such options as congregate housing with supportive services, adult foster care services, and home sharing services.

Title IV of my bill aims to encourage better nutrition. Many seniors have special dietary needs arising from health conditions, religious requirements, or ethnic backgrounds. Congregate nutrition services are designed to meet these special dietary needs. But they can only serve those older individuals whose needs are known. My bill fills this gap by encouraging health care providers to identify the special dietary needs of their elderly patients and coordinate with providers of nutrition services to ensure that these needs are met.

Mr. President, all of these amendments to the Older Americans Act aim to improve the well-being of elderly people in rural areas. They will benefit seniors from Washington State to Rhode Island and every State in between. I look forward to working with Senator ADAMS and others on the Aging Subcommittee as the Older Americans Act reauthorization moves forward.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today, along with a sum-

mary be printed in the RECORD following my statement.

I thank the Chair, and I yield the floor.

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

S. 1481

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 "Rural Older Americans Act Amendments of 1991".

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

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. General definitions.
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—HEALTH CARE AND TRANSPORTATION
Sec. 201. Coordinated services demonstration projects.
TITLE III—HOUSING OPTIONS FOR OLDER INDIVIDUALS
Sec. 301. Study and demonstration project.
TITLE IV—HEALTH CARE AND NUTRITION
Sec. 401. Nutrition services in hospitals.
Sec. 402. Transfer payments to supportive services and nutrition services.
TITLE V—COORDINATION BETWEEN AREA AGENCIES ON AGING AND COMMUNITY ACTION AGENCIES
Sec. 501. Community action agencies.
TITLE VI—NATIVE AMERICANS
Sec. 601. Disqualification of area agencies on aging.
Sec. 602. Indian health data base.
Sec. 603. Maintenance of services.
TITLE VII—RURAL OLDER INDIVIDUALS
Sec. 701. Definition.

SEC. 2. 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.).

SEC. 3. GENERAL 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 I—LONG-TERM CARE OMBUDSMAN

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 by 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 decisionmaking 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—HEALTH CARE AND TRANSPORTATION

SEC. 201. COORDINATED SERVICES DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by section 122(c)) is further amended by adding at the end the following new section:

"SEC. 426A. COORDINATED SERVICES DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a facility, entity, organization, or individual who receives payment under a program under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 1396 et seq.).

"(2) SUPPORTIVE SERVICE.—The term 'supportive service' means—

"(A) a supportive service described in section 321(a);

"(B) a service provided through a program established under section 321(b), regarding senior centers; and

"(C) a nutrition service provided through a program established under part C.

"(3) TRANSPORTATION SERVICE.—The term 'transportation service' means a service involving transportation of older individuals, provided by a public or private entity that transports, or is equipped to transport, individuals in the normal course of the business of the entity, including an entity such as a school district or public transportation authority.

"(b) ESTABLISHMENT.—The Commissioner shall establish three demonstration projects to encourage providers of health care, supportive services, and transportation services to coordinate services to older individuals. The Commissioner shall award grants to eligible agencies to pay for the costs of carrying out the projects.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible agency shall use a grant awarded under subsection (b) to establish programs in local communities in which the providers described in subsection (b) coordinate services to older individuals, including programs in which the providers coordinate services to ensure that older individuals have access, through use of vehicles accessible to persons with disabilities, to health care providers, particularly providers that allocate time specifically for patients who are older individuals.

"(2) DURATION.—A grant awarded under subsection (b) may be used for a period of 3 years.

"(d) AWARD OF GRANTS.—

"(1) RURAL STATES AND COMMUNITIES.—In awarding grants under subsection (b), the Commissioner shall award—

"(A) one grant to each of two States with populations of less than 1,000,000; and

"(B) one grant to a State for a program serving a community or region with a population of less than 1,000,000.

"(2) DISTRIBUTION.—In awarding the grants described in paragraph (1), the Commissioner shall award not more than one grant to any State.

"(e) APPLICATION.—To be eligible to receive a grant under this section, an agency shall submit an application at such time, in such manner, and containing such information as the Commissioner may prescribe.

"(f) ELIGIBLE AGENCY.—Agencies eligible to receive grants under this section include State and local public agencies that meet such requirements as the Commission may prescribe.

"(g) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Commissioner shall establish procedures for evaluating, and shall evaluate, the demonstration projects established under this section.

"(2) ANNUAL REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207—

"(A) the evaluation described in paragraph (1); and

"(B) any recommendations for administrative or legislative reform.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by section 122(d)) is further amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 426A, such sums

as may be necessary for each of the fiscal years 1992 and 1993."; and

(2) in subsection (b), by striking "this title (other than sections 427 and 428)" and inserting "sections 401 through 426".

TITLE III—HOUSING OPTIONS FOR OLDER INDIVIDUALS

SEC. 301. STUDY AND DEMONSTRATION PROJECT.

(a) HOUSING OPTION STUDY AND DEMONSTRATION PROJECT.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by sections 122(c) and 201(a) of this Act) is further amended by adding at the end the following new section:

"SEC. 426B. HOUSING OPTION STUDY AND DEMONSTRATION PROJECT.

"(a) STUDY.—

"(1) IN GENERAL.—The Commissioner, acting in conjunction with the Secretary of Housing and Urban Development, shall conduct a study of various methods of increasing the housing options that—

"(A) are available to rural older adults; and

"(B) provide greater independence than nursing homes.

"(2) SUBJECTS.—In conducting the study described in paragraph (1), the Commissioner shall in particular study the feasibility of increasing the availability of—

"(A) congregate housing with supportive services;

"(B) adult foster care services;

"(C) home sharing programs;

"(D) elder cottage housing opportunity programs;

"(E) in-home services; and

"(F) rural housing.

"(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall prepare and submit to the appropriate committees of Congress a report containing—

"(1) the findings of the Commissioner resulting from the study described in subsection (a) and any demonstration project conducted under subsection (c); and

"(2) any recommendations for legislative or administrative reform.

"(c) DEMONSTRATION PROJECTS.—

"(1) ESTABLISHMENT.—The Commissioner may establish not more than 10 demonstration projects to assess housing options for older individuals. The Commissioner may award grants to eligible entities to pay for the costs of carrying out the projects.

"(2) USE OF FUNDS.—An eligible entity shall use the grant awarded under paragraph (1) to assist the Commissioner in conducting the study described in subsection (a) and in preparing the report described in subsection (b).

"(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall award not less than 50 percent of the grants to entities for projects conducted in rural areas.

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application at such time, in such manner, and containing such information as the Commissioner may require.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by sections 122(d) and 201(b) of this Act) is further amended by adding at the end the following new paragraph:

"(6) There are authorized to be appropriated to carry out section 426B, such sums as may be necessary for each of the fiscal years 1992 through 1995.".

TITLE IV—HEALTH CARE AND NUTRITION

SEC. 401. NUTRITION SERVICES IN HOSPITALS.

Section 307(a)(13) (42 U.S.C. 3027(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (H);

(2) by striking the period at the end of subparagraph (I) and inserting "; and"; and

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

"(J) providers of nutrition services under this title shall, to the extent feasible, coordinate with hospitals, physicians, and other relevant health care providers to establish projects to—

"(i) provide special menus, in accordance with subparagraph (G), to older individuals who have been determined by a hospital, physician, or other relevant health care provider to have special dietary or nutritional needs and request such menus;

"(ii) in providing these special menus, give special consideration to serving older individuals who must receive the meals at their homes; and

"(iii) in providing the menus to the patients, maintain the confidentiality of hospital records of the patients.".

SEC. 402. TRANSFER PAYMENTS TO SUPPORTIVE SERVICES AND NUTRITION SERVICES.

Section 308(b)(5)(B) (42 U.S.C. 3028(b)(5)(B)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) In making a transfer under subparagraph (A), a State shall not adversely affect nutrition programs under part C.".

TITLE V—COORDINATION BETWEEN AREA AGENCIES ON AGING AND COMMUNITY ACTION AGENCIES

SEC. 501. COMMUNITY ACTION AGENCIES.

(a) FORMULA.—Section 305(a)(2)(C) (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "with the greatest economic need" after "60 and older".

(b) AREA PLANS.—Section 306(a) (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (3), by inserting "or community action agencies" after "multipurpose senior centers";

(2) in paragraph (6)—

(A) in subparagraph (F), by inserting "and which may include representatives of community action agencies," after "general public,";

(B) in subparagraph (O), by striking "and" at the end;

(C) in subparagraph (P), by adding "and" at the end; and

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

"(Q) coordinate the provision of services under this title with community action agencies;".

(c) STATE PLANS.—Section 307(a)(13)(H) (42 U.S.C. 3027(a)(13)(H)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding "and (iii) are multipurpose providers;" after "non-Federal sources;".

(d) OUTREACH DEMONSTRATION PROJECTS.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by sections 122(c), 201(a), and 301(a)) is further amended by adding at the end the following new section:

"SEC. 426C. OUTREACH DEMONSTRATION PROJECTS.

"(a) DEFINITION.—As used in this title, the term 'health care provider' has the meaning given the term in section 426A(a)(1).

"(b) ESTABLISHMENT.—The Commissioner shall establish demonstration projects to assist outreach programs. The Commissioner shall award grants to eligible agencies to pay for the costs of carrying out the projects.

"(c) USE OF FUNDS.—An agency shall use a grant awarded under subsection (b) to establish programs that identify individuals eligible for assistance under this Act, with an emphasis on older individuals who—

"(1) have the greatest economic need;

"(2) are residing in rural areas; and

"(3) are low-income or minority individuals.

"(d) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (b) in accordance with such criteria as the Commissioner may determine to be appropriate.

"(e) APPLICATION.—To be eligible to receive a grant under this section, an agency shall submit an application at such time, in such manner, and containing such information as the Commissioner may prescribe.

"(f) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under subsection (b) shall include community action agencies.

"(g) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Commissioner shall establish procedures for evaluating, and shall evaluate, the demonstration projects established under this section.

"(2) ANNUAL REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207—

"(A) the evaluation described in paragraph (1); and

"(B) any recommendations for administrative or legislative reform.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by sections 122(d), 201(b), and 301(b)) is further amended by adding at the end the following new paragraph:

"(7) There are authorized to be appropriated to carry out section 426C, such sums as may be necessary for each of the fiscal years 1992 through 1995.".

TITLE VI—NATIVE AMERICANS

SEC. 601. DISQUALIFICATION OF AREA AGENCIES ON AGING.

Title III (42 U.S.C. 3021 et seq.) is amended by adding at the end the following new section:

"SEC. 314. DISQUALIFICATION OF AREA AGENCIES ON AGING.

"(a) REVIEW.—On receipt of a complaint regarding an area agency on aging, the Commissioner shall review the effectiveness of the agencies in meeting the requirements of this title, including requirements that the agency—

"(1) target services provided under this title to individuals with the greatest economic need and minority individuals, including Indians; and

"(2) encourage the participation of individuals with the greatest economic need and minority individuals, including Indians, in programs established under this title.

"(b) NOTIFICATION.—If the Commissioner determines, on the basis of the review described in subsection (a), that an area agency on aging has failed to meet a requirement of this title, the Commissioner shall notify the area agency on aging and the State agency that designated the area agency on aging, and shall provide the area agency with an opportunity for a hearing.

"(c) DISQUALIFICATION.—Not earlier than 30 days after the date the Commissioner provides notification under subsection (b), and after providing an opportunity for a hearing, if the Commissioner determines that the area agency on aging has not met the requirement described in subsection (b), the Commissioner shall disqualify the area agency on aging from receiving allotments or providing services under this title, and shall

notify the area agency on aging and the State agency.

"(d) REALLOCATION.—

"(1) IN GENERAL.—On receiving notification that the Commissioner has disqualified an area agency on aging under subsection (c), the State agency that designated the area agency on aging may allocate to other area agencies on aging within the State, payments that the disqualified agency would have received. All such payments allocated to other area agencies on aging shall be used only to provide services to the area the disqualified agency would have served.

"(2) ALTERNATE SERVICE PROVIDER.—If the Commission disqualifies an area agency on aging under subsection (c), the State may designate an alternate service provider, including an Indian tribe, community action agency, or a different area agency on aging, to carry out the activities of the disqualified agency.".

SEC. 602. INDIAN HEALTH DATA BASE.

(a) DATA BASE.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by sections 122(c), 201(a), 301(a), and 501(d)) is further amended by adding at the end the following new section:

"SEC. 426D. INDIAN HEALTH DATA BASE.

"(a) ESTABLISHMENT.—The Director of the National Institute on Aging shall make grants or enter into contracts with eligible entities to establish and operate a National Indian Health Data Base.

"(b) INFORMATION.—In operating the Data Base described in subsection (a), the eligible entity shall compile, maintain, and update information regarding—

"(1) Indian elder abuse;

"(2) Indian in-home care;

"(3) Indian health problems; and

"(4) other problems unique to Indian communities.

"(c) DISCLOSURE.—In operating the Data Base described in subsection (a), the eligible entity may disclose from the Data Base—

"(1) aggregate information about the health and related characteristics of Indians; and

"(2) any information described in subsection (a), with the prior written consent of the individual with respect to whom the information is maintained.

"(d) ELIGIBLE ENTITIES.—Entities eligible to receive a grant or enter into a contract under subsection (a) shall be institutions of higher learning that have conducted assessments of the characteristics and health status of Native American older individuals for the Administration on Aging.

"(e) REGULATIONS.—The Director of the National Institute on Aging shall promulgate such regulations as the Director may determine to be appropriate for the establishment and operation of the Data Base described in subsection (a), including regulations to maintain the confidentiality of information maintained in the Data Base, consistent with subsection (c).

"(f) ADMINISTRATION.—In making a grant or entering into a contract under subsection (a), and establishing regulations under subsection (e), the Director of the National Institute on Aging shall act in conjunction with the Directors of the National Institutes of Health and the National Institute of Mental Health.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by sections 122(d), 201(b), 301(b), and 501(e)) is further amended by adding at the end the following new paragraph:

"(8) There are authorized to be appropriated to carry out section 426D, such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 603. MAINTENANCE OF SERVICES.

(a) APPLICATION REQUIREMENT.—

(1) INDIAN PROGRAM.—Section 614(a) (42 U.S.C. 3057e(a)) is amended—

(A) by striking "and" at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting "; and"; and

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

"(12) provide a satisfactory assurance that the tribal organization will consistently serve at least 50 individuals who are 60 years of age or older.".

(2) NATIVE HAWAIIAN PROGRAM.—Section 624(a) (42 U.S.C. 3057j(a)) is amended—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) provide a satisfactory assurance that the organization will consistently serve at least 50 individuals who are 60 years of age or older.".

(b) REPORT.—Section 624 (42 U.S.C. 3057j) is amended by adding at the end the following new subsection:

"(e)(1) Not later than 6 months after the date an organization receives a grant under this part, the organization shall submit to the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, a report that demonstrates that the organization is consistently serving at least 50 individuals who are 60 years of age or older.

"(2) On receiving the report described in paragraph (1) from an organization, the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall determine whether the organization is consistently serving the individuals described in paragraph (1). If, after providing notice and an opportunity for a hearing to the organization, the Associate Commissioner determines that the organization is not consistently serving the individuals, the Associate Commissioner may—

"(A) deny further grants to the organization under this part; and

"(B) take such action as may be necessary to recover grant funds received by the organization under this title for a period in which the organization was not consistently serving the individuals.".

(c) HOLD HARMLESS.—Section 632 (42 U.S.C. 3057m) is amended—

(1) by inserting "(a)" before "Payments"; and

(2) by adding at the end the following new subsection:

"(b) For fiscal year 1992 and each of the subsequent fiscal years, the Commissioner shall make available—

"(1) to organizations who received a grant to carry out the activities described in part A during fiscal year 1991 a total amount at least equal to the total amount made available to the persons to carry out the activities during fiscal year 1991; and

"(2) to organizations who received a grant to carry out the activities described in part B during fiscal year 1991 a total amount at least equal to the total amount made available to the organizations to carry out the activities during fiscal year 1991.".

TITLE VII—RURAL OLDER INDIVIDUALS

SEC. 701. DEFINITION.

(a) IN GENERAL.—Section 102 (42 U.S.C. 3002) (as amended by section 3 of this Act) is further amended by adding at the end the following new paragraph:

"(34) The term 'rural older individual' means an older individual who resides in any place with a population of less than 2,500.".

(b) PROGRAMS.—

(1) REPORTS.—Section 207(a)(4) (42 U.S.C 3018(a)(4)) is amended by inserting "low-income rural older individuals," after "minority individuals,".

(2) ORGANIZATION.—Section 305(a) (42 U.S.C. 3025(a)) is amended—

(A) by striking "low-income minority individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(B) in paragraph (2)(C), by inserting ", and of rural older individuals," after "60 and older".

(3) AREA PLANS.—Section 306(a) (42 U.S.C. 3026(a)) is amended—

(A) in paragraph (1), by striking "low-income minority individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(B) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking "low-income minority individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals";

(II) by striking "low-income minority older individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(III) in clause (iii)(II), by striking "such minority older individuals" and inserting "such individuals"; and

(ii) in subparagraph (B), by striking "rural elderly" and inserting "rural older individuals".

(4) STATE PLANS.—Section 307 (42 U.S.C. 3027) is amended—

(A) in subsection (a)—

(i) in paragraph (3)(B), by striking "older individuals residing in rural areas" and inserting "rural older individuals";

(ii) in paragraph (8), by striking "low-income minority individuals" and inserting "low-income minority, and low-income rural, older individuals";

(iii) in paragraph (23)—

(I) in subparagraph (A), by striking "low-income minority older individuals" and inserting "low-income minority, and low-income rural, older individuals"; and

(II) in subparagraph (B), by striking "such minority older individuals" and inserting "such individuals"; and

(iv) in paragraphs (24) and (29), by striking "older individuals who reside in rural areas" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(B) in subsection (b)(2)—

(i) by striking "older individuals residing in rural areas" and inserting "rural older individuals"; and

(ii) by striking "older individuals residing in such rural areas" and inserting "rural older individuals".

(5) DEMONSTRATION PROJECTS.—Section 422 (42 U.S.C. 3035a) is amended by striking "the rural elderly" each place the term appears and inserting "rural older individuals".

(6) EQUITABLE DISTRIBUTION OF ASSISTANCE.—Section 506(c) (42 U.S.C. 3056d(c)) is amended—

(A) by inserting "(1)" after the subsection designation; and

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

"(2) As used in this subsection, the term "rural area" means a place with a population of less than 2,500.".

SECTION-BY-SECTION DESCRIPTION OF THE AMENDMENTS

TITLE I (LONG TERM CARE OMBUDSMAN)

This title will create a new Title VII for the Long Term Care Ombudsman (LTCO) program. The Ombudsman program helps ensure that those who reside in long term care facilities receive proper medical treatment and services. Allegations of conditions that may jeopardize the health, safety, welfare or rights of the residents must be swiftly investigated and resolved. The amendment will stress the prevention of abuse, neglect and exploitation of older adults. Title VII also addresses elder rights and legal assistance programs and outreach, counseling, and assistance programs for the elderly.

TITLE II (HEALTH CARE AND TRANSPORTATION)

This title will set up 3 demonstration projects coordinating Health Care and Transportation services. These projects will provide the needed access for older adults to health care facilities (doctor visits) and other supportive services (congregate meal centers) by coordinating the use of public transportation and school buses. Some of these vehicles may require modifications to accommodate disabled individuals.

TITLE III (HOUSING OPTIONS FOR OLDER INDIVIDUALS)

This title will authorize a coordinated study of up to 10 demonstration projects, between the Commissioner of the Administration on Aging and the Secretary of HUD, on various methods of increasing the housing options for older individuals, particularly those in rural areas. While many older individuals do not need the degree of care provided in a skilled nursing home, they do require some assistance. Possible alternatives for these individuals include congregate housing with supportive services, adult foster care services, home sharing programs and in-home services.

TITLE IV (HEALTH CARE AND NUTRITION)

This title encourages nutrition providers and health care (hospitals) providers to establish projects to supply special menus for older individuals under care. Many older adults have special dietary needs arising from health conditions, religious requirements, or ethnic backgrounds. Congregate nutrition services are designed to meet these special dietary needs. The bill encourages health care providers to indentify the special dietary needs of their elderly patients and coordinate with providers of nutrition services to ensure that these needs are met.

TITLE V (COORDINATION BETWEEN AREA AGENCIES ON AGING AND COMMUNITY ACTION AGENCIES)

First, this title identifies Community Action Agencies (CAAs) as alternative resource centers for providing services to older adults. Second, this title will establish demonstration projects to assist outreach projects, targeting special groups. The demonstration projects will be used to establish programs that identify individuals eligible for assistance under the OAA, particularly low income and rural elderly. Many of these groups do not receive full services from Area Agencies. The CAA's strength is ensuring that all older adults, particularly those with low incomes, are identified and that services are available and provided.

TITLE VI (INDIANS)

This title seeks to hold Area Agencies accountable for providing adequate service to Indian tribes. It also authorizes a plan to develop a data base to quantify the needs and concerns of Indian tribes. First, Area Agencies that do not provide adequate service to Native American tribes can be disqualified and their funding reallocated. This should ensure that these tribes are receiving proper and adequate services. Second, information regarding Indian tribes is minimal. The data base will help identify the basic needs and concerns of older Native Americans. Areas to be included in the data base study are Indian elder abuse, Indian in-home care and Indian health problems.

TITLE VII (RURAL OLDER INDIVIDUALS)

This title defines a new term, "rural older individual", for the Act. The term is added to all areas of the Act wherever a "special group", such as low income minorities, is designated. Throughout Title III, "special groups" are singled out to receive particular attention when state plans and area plans are made. The addition of rural older adults to this group will ensure they are recognized during the planning and organization of services for older adults.•

By Mr. WALLOP (for himself and Mr. SIMPSON):

S.J. Res. 179. Joint resolution to designate the week beginning August 25, 1991, as "National Parks Week;" to the Committee on the Judiciary.

NATIONAL PARKS WEEK

• Mr. WALLOP. Mr. President, in 1872, the first national park in the world was established in the Yellowstone area of, what was then, the territory of Wyoming. Since no civilian agency existed to manage it, Yellowstone National Park was placed under the jurisdiction of the U.S. Army. In the succeeding years, as more parks were established in various places, a need was realized for a special organization to properly manage and administer these areas of superlative natural beauty and cultural significance.

That special organization, created by the Act of August 25, 1916, is the National Park Service. In this, its 75th anniversary year, the National Park Service and its employees enjoy unexcelled public confidence and support.

The "national park idea" has spread around the world and includes outstanding examples of international cooperation in the management of parks, sharing of information and technology, and preservation and interpretation of outstanding examples of the world's natural and cultural heritage. Public visitation to the national parks has increased to millions per year and the attraction of national parks and monuments to foreign visitors is increasingly apparent.

The concept of a national park has so entranced humanity that the park idea was described by Lord James Bryce, British Ambassador to the United States from 1907 to 1913, in a speech to the American Civic Association in November 1912 as the best idea America ever had. In this, the 75th anniversary year of the National Park Service, it is only fitting that the Senators from the State where it all began, should introduce a joint resolution to recognize the contributions that national parks, and the people who have dedicated their lives to them, have made. I take great pleasure, on behalf of the citizens of this Nation, and the world, to offer this resolution to designate the week of August 25, 1991, as "National Parks Week."•

By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 180. Joint resolution designating December 1 through 7, 1991, as "Geography Awareness Week;" to the Committee on the Judiciary.

GEOGRAPHY AWARENESS WEEK

• Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Kansas, Senator KASSEBAUM, to introduce a resolution to declare the week of December 1 through December 7, 1991, as "Geography Awareness Week."

Mr. President, 4 years ago, I introduced the first Geography Awareness Week resolution, because I saw alarming reports of geographic illiteracy in our Nation. Surveys found that our Nation's students had at best a distorted understanding of our world and at worst were totally ignorant of the most basic geography. A survey by the Asbury Park Press in one part of New Jersey found that on the average, 12th graders could identify only 41 percent of the States. In Dallas, 25 percent of the high school students could not name Mexico as the country that bordered the United States to the south. In Boston, 39 percent of the surveyed students could not name the six New England States.

Mr. President, since Congress first took note of the problem by establishing Geography Awareness Week, we have started to confront the problem of geographic illiteracy. Many schools have reintroduced geography as part of their curriculum. But much needs to be done to revitalize and expand the role of geography in the public consciousness.

I sponsored the first statewide geography bee in New Jersey 4 years ago. Over 600 eighth graders from all over the State competed. Robin Cadwallender, a 13-year-old eighth grader from Hopatcong, NJ, won that competition. Now, we have a national geography bee—modeled after that first New Jersey bee—which is in its second year. All 50 States are involved in the competition, run much like the national spelling bee.

In addition, for the past 4 years, I have challenged elementary school classes to develop outstanding geography class projects. The response has been phenomenal. In fact, thousands of students from literally hundreds of schools in New Jersey participated in the program. I gave one school an outstanding achievement award, and 10

schools special recognition awards for their efforts. I am proud of all the students and teachers who have participated.

I believe that national attention must be focused on the importance of world geography in preparing our young people for the future of an increasingly interdependent and interconnected world. Knowledge of geography offers necessary perspectives and information for understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world.

Yet even with this critical need to know, a majority of American students today still receive no significant exposure to geography in school. This is illustrated by one Gallup poll which ranked Americans in the bottom third in an international test of geographic knowledge, with those aged 18 to 24 ranking last. Less than half of these young people could find Central America on a map; only one in three could locate Vietnam; and three-quarters could not find the Persian Gulf. Clearly, continued ignorance, such as this, places the United States at a distinct disadvantage in matters of business, politics, and the environment.

That's why I am introducing this legislation—to focus national attention on the essential role that knowledge of world geography plays in our lives. It is my hope that this will be just one step in a revitalization of the study of geography. All of our citizens should have access to the sort of education which will help them appreciate both the great beauty and diversity of this Nation and its place in the world.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to join Senator BRADLEY again this year in introducing a joint resolution designating the week of December 1 through 7, 1991, as "National Geography Awareness Week." The recent war in the Persian Gulf illustrated how important knowledge of geography is in times of international crisis. Without that information many individuals, including policy makers, would have found it difficult to follow even the daily news reports of the events in the region.

The commemoration of "National Geography Awareness Week" has provided students and teachers across the United States with an opportunity to focus on the improvement of geographic literacy. For the fifth year, public officials, schools, businesses, and communities will have the chance to participate in special events and activities promoting the Nation's geography awareness.

Currently, students in the United States receive a limited exposure to geography in their curricula. A study released by the National Geographic Society indicated that prior to the Persian Gulf war only 25 percent of Americans surveyed were able to locate the Persian Gulf on a map. It is a shame to think that a war is an educational tool in teaching geography. Clearly, unless renewed emphasis is placed on geography, the United States will remain at a distinct disadvantage in international business and politics.

"National Geography Awareness Week" will once again strengthen public awareness of the importance of improving geographic literacy in our educational system and our communities. I urge our colleagues to join with Senator BRADLEY and me in supporting this joint resolution.●

ADDITIONAL COSPONSORS

S. 140

At the request of Mr. WIRTH, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor 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. DOMENICI, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors 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. DASCHLE] was added as a cosponsor of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 518

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 518, a bill to amend title XVIII of the Social Security Act to expedite the payment of claims under such title by increasing the level of interest paid on late payments to providers under such title, and for other purposes.

S. 533

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 533, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 581

At the request of Mr. BOREN, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. PELL], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the outer continental shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 860

At the request of Mr. DOLE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 860, a bill to support democracy and self-determination in the Baltic States and the republics within the Soviet Union.

S. 878

At the request of Mr. DODD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 985

At the request of Mrs. KASSEBAUM, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

At the request of Mr. GORTON, his name was added as a cosponsor of S. 985, supra.

S. 1063

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1063, a bill to provide education loans to students entering the teaching profession and to provide incentives for students to pursue teaching careers in areas of national significance.

S. 1112

At the request of Mr. HOLLINGS, the names of the Senator from Florida [Mr.

GRAHAM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1112, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Utah [Mr. GARN], and the Senator from Hawaii [Mr. AKAKA] 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. 1257

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1364

At the request of Mr. PRYOR, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1383

At the request of Mr. MCCAIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1383, a bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1441

At the request of Mr. COCHRAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1441, a bill to provide disaster assistance to agricultural producers, and for other purposes.

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Arkansas [Mr. PRYOR], the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. SHELBY], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the names of the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. AKAKA], the Senator from South Carolina [Mr. THURMOND], the Senator from Arizona [Mr. MCCAIN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. SMITH], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. GARN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. DIXON], the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. ROBB], the Senator from Indiana [Mr. COATS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Georgia [Mr. FOWLER], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Wisconsin [Mr. KOHL], the Senator from Nevada [Mr. REID], the Senator from Tennessee [Mr. SASSER], the Senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. BURDICK], the Senator from Maryland [Ms. MIKULSKI], the Senator from Missouri [Mr. BOND], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. MOYNIHAN], the Senator from Florida [Mr. GRAHAM], the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. DODD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution condemning resurgent anti-Semitism and ethnic intolerance in Romania.

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

SENATE CONCURRENT RESOLUTION 53—REGARDING ISRAEL'S 1981 STRIKE AGAINST IRAQ'S NUCLEAR REACTOR

Mr. SPECTER (for himself, Mr. MURKOWSKI, Mr. HOLLINGS, Mr. BREAUX, Mr. CRAIG, Mr. AKAKA, Mr. FORD, Mr. MCCAIN, Mr. COHEN, Mr. DIXON, Mr. INOUYE, Ms. MIKULSKI, Mr. COATS, Mr. COCHRAN, Mr. BROWN, Mr. SHELBY, Mr. BRADLEY, Mr. GORTON, Mr. CONRAD, Mr. SARBANES, Mr. METZENBAUM, Mr. PACKWOOD, Mr. LIEBERMAN, Mr. SIMON, Mr. SYMMS, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. SMITH, Mr. REID, Mr. JOHNSTON, Mr. SEYMOUR, Mr. ROBB, Mr. MACK, Mr. NICKLES, Mr. LOTT, Mr. WALLOP, Mr. D'AMATO, Mr. DECONCINI, Mr. GRASSLEY, Mr. DODD, Mr. GRAMM, Mr. RIEGLE, Mr. HATCH, Mr. WOFFORD, Mr. LAUTENBERG, Mr. BURDICK, Mr. GRAHAM, Mr. HEFLIN, Mr. GORE, Mr. LEVIN, Mr. DASCHLE, Mr. HELMS, Mr. SASSER, and Mr. ADAMS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 53

Whereas on June 7, 1981, the Israeli air force launched a preemptive strike against the Iraqi nuclear reactor at Osirak;

Whereas on June 19, 1981, the United Nations Security Council adopted Resolution 487 which condemned that Israeli preemptive strike;

Whereas in the years following that Israeli preemptive strike, Iraq demonstrated an ability and willingness to use weapons of mass destruction, as evidenced by chemical weapons attacks against both Iranian military forces and Kurdish Iraqi citizens;

Whereas in 1990, Iraqi President Hussein threatened to use weapons of mass destruction against both neighboring Arab countries and Israel;

Whereas in August 1990, Iraq invaded and occupied Kuwait, demonstrating a continuing policy of aggression;

Whereas Israel showed great restraint in not responding to Iraq's unprovoked missile

attacks on innocent Israeli civilians which occurred repeatedly from January 1991 through February 1991;

Whereas Israel's preemptive strike on the nuclear reactor at Osirak may have saved the lives of U.S. service men and women deployed in the Persian Gulf region after Iraq's invasion of Kuwait in August 1990; and

Whereas there is no evidence that the Israeli preemptive strike against the Iraqi nuclear reactor at Osirak delayed efforts to resolve the Arab-Israeli conflict: Now, therefore, be it

Resolved by the United States Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense which also reduced the threat of Iraqi nuclear aggression against countries bordering Iraq; and

(2) the United States should seek the repeal of United Nations Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike.

Mr. SPECTER. Mr. President, as we pay tribute to the actions of our coalition military forces in defeating the Iraqi threat, it is important to reflect on how different the outcome might have been if President Saddam Hussein had possessed the capability to use nuclear weapons in the Persian Gulf. Thankfully, the Israeli Air Force on June 7, 1981 eliminated that capability and removed a scenario for a nuclear Armageddon in the Middle East by destroying Iraq's Osirak nuclear reactor.

The daring Israeli preemptive strike against the Iraqi nuclear reactor was a legitimate and justifiable exercise of self-defense. Unfortunately, at the time, many in the world community did not see it that way and a hostile United Nations voted to strongly condemn Israel for making that strike—U.N. Security Resolution 487. In response to world criticism, then Prime Minister Menachem Begin defended Israel's mission, "Israel has nothing to apologize for. Ours is a just cause, we stand by it, and it will triumph."

If Israel had not destroyed Iraq's reactor, there is a very strong probability that President Saddam Hussein would have had nuclear weapons in hand by August 2, 1990. The destruction of the Osirak reactor may have delayed that development by 10 years. At the time of the Iraqi invasion of Kuwait, many experts claimed that Iraq was within 1 to 3 years of developing and producing nuclear weapons and recently, U.N. nuclear inspectors confirmed Iraq's short-term capability to produce a crude bomb. Military strategists were very aware that Iraq already possessed a delivery capability via its jet bombers and short-range surface-to-surface missiles and was working on an accelerated weapons program to develop a medium-range missile that could carry an unconventional warhead weighing up to 1,100 pounds. There was little doubt that the Iraqi nuclear threat was ominous and growing.

There can no longer be any doubt on the dangerousness of Iraq's intentions. The wanton Scud attacks against Israel showed Iraq's ruthlessness and their willingness to inflict death and destruction against innocent civilians.

The lesson of history is that the threats from armed dictators should not be taken lightly and the transfer of nuclear-related technology needs to be tightly controlled. The complicity of Western countries in supplying Iraq with chemical, biological, and nuclear-related technologies cannot be excused. We cannot afford to let despotic regimes get close to developing a nuclear capability and create situations where the survival of countries like Israel and other nations are threatened.

But it is not only Israel that is threatened by unchecked proliferation of weapons of mass destruction, it is the entire world. The United States and our allies in the gulf should be especially thankful to Israel that we did not have to confront a nuclear-armed Iraq. Had our forces had to contend with that contingency, it is doubtful that Kuwait would have ever been liberated unless America was willing to risk a significant portion of her Naval fleet and loss of hundreds of thousands of American lives. That is a frightening scenario that could have become a reality.

Mr. President, I believe that the time is now right for the United States Congress to address the issue of Israel's preemptive strike in its proper moral and historical context. Accordingly, this sense of Senate resolution seeks to encourage the United Nations, including the countries that served in the alliance against Iraq, to join the United States in repealing U.N. Resolution 487, which condemned Israel for an act of self-defense that reduced the threat of Iraqi nuclear aggression against other nations in the region.

SENATE CONCURRENT RESOLUTION 54—RELATIVE TO MEDICAL AND HUMANITARIAN ASSISTANCE TO IRAQ

Mr. DODD (for himself, Mr. WELLSTONE, Mr. SIMON, Mr. CRANSTON, Mr. PELL, Mr. JEFFORDS, and Mr. KENNEDY) submitted the following concurrent resolution; which was referrred to the Committee on Foreign Relations:

S. RES. 54

Whereas medical teams from the United States, including a team of doctors from Harvard University and a team of doctors from the Arab-American Medical Association, have reported conditions in Iraq to be a "public health catastrophe";

Whereas widespread and severe acute malnutrition of children currently exist in Iraq due to acute shortages of food and infant formula that, if not relieved, could become a nationwide famine;

Whereas cholera, dysentery, typhoid, and gastroenteritis have reached epidemic proportions, and the incidence of all forms of water-borne diseases will increase during the summer months;

Whereas the Iraqi health care system is operating at a fraction of its former capacity;

Whereas basic infrastructure necessary to meet public health needs—water purification, sewage treatment, and electrical power—has been substantially reduced;

Whereas the United Nations appealed to the world community for $400 million for emergency humanitarian assistance in Iraq, including assistance for the refugees on the border of Iraq and Turkey, of which less than 50 percent has been provided;

Whereas an estimate that $3.75 billion of foreign-held Iraqi state assets remain frozen, of which an estimated 40 percent is in United States banks; and

Whereas the condition of Iraqi children is an international humanitarian concern that must be addressed immediately: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United Nations donor nations, including the United States, should fulfill their pledges made to the United Nations in response to its appeal for $400 million for emergency humanitarian assistance in Iraq, including assistance for the refugees; and

(2) the United States and other countries should immediately transfer a portion of Iraq's frozen state assets necessary to help meet the medical and humanitarian needs of Iraqi families and children in greatest need exclusively to the United Nations system, especially to its humanitarian and development assistance agencies, and to the International Committee of the Red Cross and other internationally recognized humanitarian relief organizations.

Mr. DODD. Mr. President, I rise today with Senator WELLSTONE, and Senator SIMON, and Senator CRANSTON, to introduce a resolution that would facilitate the provision of humanitarian and medical assistance to suffering children and families in Iraq.

We have just emerged from a successful campaign against Saddam Hussein and his evil, oppressive government. While it is absolutely critical that the United States continue implementing the explicit goals agreed upon by members of the international community in the United Nations cease fire resolution, we can not forget the unfortunate and unintended consequences of war. Just as Iraq must meet its obligations to the United Nations and to rebuilding its country, members of the international community must ease the suffering of the innocent children and families of Iraq.

For those innocent victims of Saddam Hussein's brutal regime, the present situation inside Iraq is grim. Last month, doctors from Harvard University and the Arab-American Medical Association visited this ravaged country and found what can only be described as a public health catastrophe. The Persian Gulf war has left Iraq without an infrastructure and without the capacity to deliver the bare essentials of food, clean water, electric power, sewage treatment, and even minimal health care to the majority of its 18 million citizens.

The consequences of this destruction are far-reaching and severe. Today, the country of Iraq is barely functional. Less than 30 percent of Iraq's pre-war electrical generating capacity is available. What capacity is left is sporadically located throughout Iraq, and is riddled with interruptions of service. Because the country no longer has a functioning electrical grid, thousands of temporary generators are used for the purification and pumping of water and for the disposal of sewage. Still, many Iraqis must rely on highly polluted rivers for drinking water, bathing, and the disposal of untreated sewage.

Malnutrition among the Iraqi people, particularly children, is pervasive and widespread due to the acute shortages of food and infant formula. Before the imposition of U.N. sanctions on August 6, 1990, over 70 percent of Iraq's basic foodstuffs were imported. Currently the severe shortages of basic commodities have driven the prices of food out of control. It is reported that food prices now average 1,000 percent higher than food prices 1 year ago. Even the most basic foodstuffs needed for survival are now priced out of reach for many Iraqi families.

The price of a single can of infant formula has catapulted from $1.00 to $50.00. While poor families receive 3 cans of infant formula from the Government per month at the $1.00 price, an infant requires at least 10 cans of formula per month to meet proper nutritional requirements and healthy development.

It is clear that Iraqi children are wasting away, suffering from stunted growth and malnutrition. It is estimated that 170,000 Iraqi children under age 5 may die in the next year, 100,000 of them will be infants.

The deplorable conditions inside Iraq are also causing disease to spread rapidly throughout the country. Cholera, dysentery, typhoid, and gastroenteritis have all reached epidemic proportions and the presence of water-borne diseases are increasing because of the intense desert heat. Iraqi hospitals, overrun with patients, face severe shortages of antibiotics and other life-sustaining drugs, dehydration fluids, and diagnostic lab equipment. These conditions are compounded by constant interruptions of electrical power and inadequate waste disposal.

Later this week, the United Nations will issue a report with findings similar to those of the Harvard and Arab-American teams. The U.N. report will reach the same conclusion—children and families inside Iraq urgently need vital medical care, food, and clean water, and electric power in order to survive.

As chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism and as a member of the Foreign Relations Committee, I see no choice but to encourage international assistance to the innocent children and families of Iraq. These people urgently need large scale humanitarian and medical assistance to reduce alarmingly high infant and child mortality rates. Foodstuffs, infant formula, and the restoration of basic medical supplies and care is also critical.

Put simply, this resolution recognizes the immediacy of this tragic situation and calls on donor nations around the world, including the United States, to meet the outstanding appeal issued by the United Nations. If met, this outstanding appeal would deliver $400 million in relief funds to Iraqi families and children. It is tragic that since the beginning of this emerging crisis, U.N. agencies have been forced to beg for funds for the project that will save the lives of children.

This resolution also calls for the United States and other countries to transfer frozen State assets to the U.N. system, and to internationally recognized humanitarian relief organizations, especially the International Committee of the Red Cross.

Mr. President, while the United States continues to press for full implementation of the U.N. ceasefire resolutions, all members of the international community must not forget the innocent and unintended victims of the Persian Gulf war. The United States and countries throughout the world can and should meet the pledge they have made to the United Nation's outstanding appeal to provide suffering Iraqi citizens with food and medical supplies. Children are dying and can't afford to wait.

Mr. WELLSTONE. Mr. President, I rise today to offer a resolution with Senator DODD and several others of my colleagues, which responds to the human tragedy unfolding daily in Iraq. I am pleased to be a member of the Subcommittee on Children and Families, chaired by Senator DODD. Our shared concerns have motivated our efforts to find a means of alleviating the horrible suffering of the children and families of Iraq.

In America, the Persian Gulf war is long over. But in Iraqi hospitals and homes, it is still being fought against epidemic disease and starvation. When the world community imposed economic sanctions against Iraq, it did not intend for them to cause prolonged, profound suffering among the people of Iraq. How many times did President Bush state that our problem was not with the Iraqi people, but with its political leadership. Certainly our quarrel was not with babies and children. Yet that is who has suffered most and continues to suffer most.

A top-level U.N. mission sent to Iraq to assess that country's civilian needs returned over the weekend. The team found that without massive imports of food, medicine and essential supplies, the country is headed for "a major catastrophe." The U.S. envoy, Prince Sadruddin Aga Khan, reported to the U.N. Secretary General the team's strong recommendation to ease sanctions in order to make funds available for these essential imports.

The findings of the U.S. team, included in a report scheduled to be released later this week, are further corroboration of findings of other recent investigations. A medical team from Harvard that visited Iraq in April estimated that 170,000 children under the age of five will die in the coming year from the delayed effects of the gulf war. The Harvard team, and others, say these projections are conservative.

The youth of Iraq is perishing daily as most of the world stands by unable or unwilling to respond. The immediate cause of death in most cases is water-borne infectious diseases in combination with severe malnutrition. The prevalence of acute malnutrition is so high that a nationwide famine is quickly becoming a likelihood if food shortages are not relieved.

Until the imposition of U.N. sanctions, Iraq imported over 70 percent of basic foodstuffs. Currently, shortages exist in all of the basic commodities needed for everyday survival. Supplies of baby milk are particularly scarce. Those food supplies that are available are priced out of reach for most Iraqi families. Due to the shortages, food prices now average 1,000 percent higher than prices a year ago.

Safe drinking water also is in dangerously short supply, especially outside of the major cities. When allied bombing destroyed the national electrical grid in January, water treatment plants throughout the country ceased to function. Iraqi civilians turned to polluted rivers for drinking, bathing and disposal of sewage. Today, less than 30 percent of Iraq's pre-war electrical generating capacity is available. What this has meant for Iraq's children is epidemic conditions of water-borne diseases such as cholera, typhoid, and dysentery.

The U.N. team has recommended two formulas for easing the sanctions—allowing Iraq to sell oil or unfreezing its assets abroad. At least $3.75 billion of Iraqi State assets is frozen in foreign banks, of which about 40 percent is in American banks. If private assets are included, the total is closer to $5 billion. Last May, Iraq requested permission to export $900 million worth of oil to raise funds for the importation of food, medicine and equipment for reconstruction. The Security Council has not acted on Iraq's request.

Whichever method is used to make available large sums of money, says Prince Aga Khan, it should not be too complex or too bureaucratic. The Iraqi Government's recent lack of candor concerning the existence of nuclear weapons production facilities has

rightfully reinforced the world community's unwillingness to place any trust in the Government. Given this, I believe that Iraq's frozen State assets represent the most readily available source of funds and the most readily managed funds by U.N. officials.

The resolution we are introducing today calls on our Government and others to immediately transfer to the United Nations that portion of Iraq's frozen State assets necessary to help meet the medical and humanitarian needs of Iraq's families and children in greatest need. A similar resolution has already been introduced in the House of Representatives by Congressman TIM PENNY from my State of Minnesota.

I believe that the United States and other countries should also begin devising the procedures for allowing the exportation of Iraqi oil to raise funds for emergency needs. Effective means must be established to monitor the importation and distribution of goods and services to ensure that they are reaching Iraq's needy civilian population.

Our resolution also asks the U.N. donor nations, including the United States, to fulfill their pledges made to the United Nations in response to its earlier appeal. From the beginning of this crisis, the United Nations has had to beg for resources. The United Nations issued a revised appeal for $400 million for humanitarian assistance in Iraq, including assistance for the refugees. Less than half of this total has been received. The international relief agencies on the ground immediately should receive international resources necessary to provide to the most needy such essentials as baby milk, wheat, sugar, rice, and cooking oil.

I urge my colleagues to join Senator DODD, Senator SIMON, Senator CRANSTON, and myself and our House colleagues in this effort to respond to a calamitous situation in Iraq. The Persian Gulf war continues to claim victims—innocent families and children. Immediate action is required if the world is to protect these innocent victims.

SENATE RESOLUTION 154—RELATIVE TO THE PURCHASE OF CALENDARS

Mr. FORD (for himself and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 154

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $74,880 for the purchase of 104,000 "We The People" 1992 historical calendars. The calendars shall be distributed as prescribed by the committee.

AMENDMENTS SUBMITTED

NATIONAL ENERGY SECURITY ACT OF 1991

JOHNSTON (AND CONRAD) AMENDMENT NO. 752

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill (S. 1220) to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as follows:

Strike all of title III and insert the following:

TITLE III—CORPORATE AVERAGE FUEL ECONOMY

SEC. 3101. SHORT TITLE.—This subtitle may be cited as the "Motor Vehicle Fuel Efficiency Act of 1991".

SEC. 3102. DEFINITIONS.—Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended by adding at the end the following new paragraphs:

"(15) The term 'light truck' means an automobile other than a passenger automobile.

"(16) The term 'vehicle class' means (i) all passenger automobiles; or (ii) all light trucks.".

SEC. 3103. AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES.—Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)) is amended by striking subsection (a) and inserting the following:

"(a)(1) Except as otherwise provided in subsection (c) or (f), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1991 shall not be less than the number of miles per gallon established for such model year under the following table:

"Average fuel economy standard

"Model year	
"1992 through 1995	27.5 miles per gallon.
"1996 through 2000	Determined by the Secretary under paragraph (2)(A).
"2001 through 2005	Determined by the Secretary under paragraph (2)(B).
"2006 and thereafter	Determined by the Secretary under paragraph (2)(C).

"(2) Not later than 18 months after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall prescribe, by rule, for each manufacturer of passenger automobiles, an average fuel economy standard for passenger automobiles manufactured by such manufacturer in—

"(A) model years 1996 through 2000;

"(B) model years 2001 through 2005;

"(C) model year 2006 and thereafter.

"(3)(A) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2)(A), (B), or (C) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).

"(B) Notwithstanding subparagraph (A), the standard prescribed for any manufacturer under paragraph (2)(A), (B), or (C) shall not be:

"(i) lower than 27.5 miles per gallon or higher than 40 miles per gallon for model years 1996 through 2000;

"(ii) lower than 28.5 miles per gallon or higher than 42 miles per gallon for model years 2001 through 2005; or

"(iii) lower than 30 miles per gallon or higher than 45 miles per gallon for model year 2006 and thereafter.".

SEC. 3104. AVERAGE FUEL ECONOMY STANDARDS FOR LIGHT TRUCKS.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (b) and inserting the following:

"(b)(1) The Secretary shall, by rule, prescribe average fuel economy standards for light trucks which are manufactured by any manufacturer in each model year before model year 1996. Such standards shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

"(2) Not later than 18 months after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall prescribe, by rule, for each manufacturer of light trucks, an average fuel economy standard for light trucks manufactured by such manufacturer in—

"(A) model years 1996 through 2000;

"(B) model years 2001 through 2005;

"(C) model year 2006 and thereafter.

"(3)(A) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2)(A), (B), or (C) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).

"(B) Notwithstanding subparagraph (A), the standard prescribed for any manufacturer under paragraph (2)(A), (B), or (C) shall not be:

"(i) lower than 20 miles per gallon or higher than 30 miles per gallon for model years 1996 through 2000;

"(ii) lower than 22 miles per gallon or higher than 32 miles per gallon for model years 2001 through 2005; or

"(iii) lower than 24 miles per gallon or higher than 35 miles per gallon for model year 2006 and thereafter.".

SEC. 3105. EXEMPTIONS FOR MANUFACTURERS OF LIMITED NUMBERS OF PASSENGER AUTOMOBILES.—Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)) is amended by inserting "for any model year prior to model year 1966" immediately before the period at the end of the first sentence.

SEC. 3106. CALCULATION OF AVERAGE FUEL ECONOMY STANDARDS FOR INDIVIDUAL MANUFACTURERS.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (d) and inserting the following:

"(d) (1) The Secretary shall determine the maximum feasible average fuel economy achievable for passenger automobiles or light trucks manufactured by any manufacturer (i) during model years 1996 through 2000; (ii) during model years 2001 through 2005; and (iii) during model year 2006 and thereafter by—

"(A) determining, in accordance with subsection (e), the maximum feasible average fuel economy (in miles per gallon) of all automobiles of such vehicle class manufactured by all manufacturers during such period assuming the use of maximum practical achievable technology;

"(B) calculating the percentage increase in the average fuel economy of all automobiles of such vehicle class that the maximum feasible average fuel economy determined in paragraph (1) represents compared to the average fuel economy of all automobiles of such vehicle class manufactured in model year 1990 as determined in accordance with section 503; and

"(C) increasing the average fuel economy of automobiles of such vehicle class manufactured by such manufacturer in model year 1990 by the greater of:

"(i) the percentage increase calculated in accordance with paragraph (1)(B); or

"(ii) the following percentage increase for the applicable period:

"(I) for model years 1996 through 2000, 7.5 percent for passenger automobiles and 5.9 percent for light trucks;

"(II) for model years 2001 through 2005, 20.9 percent for passenger automobiles and 15.8 percent for light trucks;

"(III) for model year 2006 and thereafter, 31.8 percent for passenger automobiles and 28.0 percent for light trucks.

"(2) Except as provided in subsection (a)(3)(B) or (b)(3)(B), the Secretary shall apply the same percentage increase to all manufacturers of automobiles of such vehicle class.

"(3) Notwithstanding paragraph (1)(C), upon the application of any manufacturer, the Secretary may adjust the model year 1990 average fuel economy of a vehicle class manufactured by such manufacturer used to calculate such manufacturer's maximum feasible average fuel economy under this subsection if—

"(A) necessary to remove any artificial competitive advantage among manufacturers that otherwise would result; and

"(B) the adjustment would not reduce the overall fuel economy of all manufacturers under this part.

"(4)(A) With respect to the manufacturer of automobiles in any vehicle class which did not manufacture automobiles in such vehicle class in model year 1990, the maximum feasible average fuel economy level of such vehicle class for model years 1996 through 2000, model years 2001 through 2005, and model year 2006 and thereafter shall be equal to the greater of:

"(I) the maximum feasible average fuel economy of all automobiles of such vehicle class manufactured by all manufacturers during such period under paragraph (1)(A); or

"(II) such higher level as the Secretary determines the manufacturer is capable of achieving after considering the factors set forth in subsection (e).

"(B) Notwithstanding subparagraph (A)(II), no manufacturer of automobiles in any vehicle class which did not manufacture automobiles in such vehicle class in model year 1990 shall be assigned a maximum feasible average fuel economy level greater than the highest maximum feasible average fuel economy level assigned to a manufacturer under paragraph (1).".

SEC. 3107. DETERMINATION OF MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (e) and inserting the following:

"(e)(1) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(A) technological feasibility;

"(B) economic practicability;

"(C) the effect of other Federal motor vehicle standards on fuel economy; and

"(D) the need of the Nation to conserve energy.

"(2) For purpose of determining maximum feasible average fuel economy under subsection (d), the Secretary shall assume use of the maximum practical achievable fuel-saving technology. In evaluating maximum practical achievable technology, the Secretary shall assume that, taken as a whole, the population of automobiles of each vehicle class manufactured by all manufacturers during the appropriate model year—

"(A) uses all economically practicable fuel-saving technologies that are capable of being commercialized by the first model year of the appropriate period, considering—

"(i) the time at which improved or new technologies could be introduced and the rates at which they might penetrate the market under existing industrial capabilities; and

"(ii) any technical financial, regulatory, organizational, and marketing limitations to deploying improved or new technologies by the first model year of such period;

"(B) attains the same performance level as automobiles manufactured in model year 1990, taken as a whole; and

"(C) reflects the same size mix and interior volume as automobiles of the same vehicle class manufactured in model year 1990, taken as a whole.

"(3) In evaluating the effect of other Federal motor vehicle standards on fuel economy for purposes of subsection (d), the Secretary shall assume that each vehicle meets all applicable emission standards and automobile safety standards in effect by the first model year of the appropriate period.

"(4)(A) Not later than 5 years before the beginning of model years 2001 and 2006, the Secretary shall conduct a rulemaking proceeding to reevaluate the Secretary's determinations of the maximum feasible average fuel econmy of passenger automobiles and of light trucks under paragraph (1)(A). The Secretary shall reevaluate determinations with respect to model years 2001 through 2006 5 years before the beginning of model year 2001, and determinations with respect to model year 2006 and again 5 years before the beginning of model year 2006.

"(B) Based upon such reevaluation, the Secretary may increase or decrease the percentage increase calculated under paragraph (1)(B), and may amend, in accordance with subsection (f), any standard set under subsection (a), (b), or (c).

"(C) Notwithstanding subsection (d)(1)(C)(ii), the Secretary may, by rule, reduce the minimum percentage increases specified in such subsection by an amount that would reduce average fuel economy in any vehicle class by no more than:

"(I) 1 miles per gallon for model years 1996 through 2000;

"(II) 2 miles per gallon for model years 2001 through 2005; and

"(III) 3 miles per gallon for model years 2006 and thereafter.

"(5) For purposes of this subsection, the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

SEC. 3108. AMENDMENT OF STANDARDS.—Section 502(f) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(f) is amended—

(1) by striking "subsection (a)(3)" and inserting "subsection (a)" each place it appears;

(2) by striking "meets the requirements of subsection (a)(3), (b), or (c), as the case may be" and inserting "is set at a level the Secretary determines is the maximum feasible average fuel economy level which the manufacturer to which it applies is able to achieve"; and

(3) by striking "if required by paragraph (4) of subsection (a)," in paragraph (2)(B).

SEC. 3109. PROCEEDINGS.—Section 502(h) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(h)) is amended by striking "Proceedings under subsection (a)(4) or (d)" and inserting "Any proceeding to promulgate or amend a rule under this section".

SEC. 3110. CREDIT TRADING.—(a) CARRYING BACK CREDITS.—Section 502(1)(1)(B)(i)b of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)(1)(B)(i) is amended by striking "three" and inserting "five".

(b) CARRYING FORWARD CREDITS.—Section 502(l)(1)(B)(ii) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)(1)(B)(ii) is amended to read as follows:

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer—

"(I) for any three consecutive model years immediately exceeds such applicable average fuel economy standard with respect to credits earned for exceeding average fuel economy standards for model years prior to 1996; and

"(II) until used with respect to credits earned for exceeding average fuel economy standards for model years 1996 and thereafter.".

(c) CREDITS FOR LIGHT TRUCKS.—Section 502(1)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(2)) is amended—

(1) by striking "automobiles which are not passenger automobiles" and inserting "light trucks"; and

(2) by striking "claims of automobiles" and inserting "light trucks".

(d) CONFORMING AMENDMENTS.—Section 502(1)(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(3)) is amended—

(1) by striking "civil penalty" and "penalty" each place either appears and inserting "fee"; and

(2) by striking "508" and inserting "507".

(e) TRANSFERRING CREDITS.—Section 502(1) of the Motor Vehicle Informatioln and Cost Savings Act (15 U.S.C. 2002(1)) is amended by striking paragraph (4) and inserting the following three paragraphs:

(4) Credits under this subsection may be transferred among manufacturers and among vehicle classes of a manufacturer in accordance with rules issued by the Secretary under paragraph (5).

"(5) NOTWITHSTANDING PARAGRAPH (4)—

"(A) no credit earned by a manufacturer under paragraph (1) with respect to either passenger automobiles or light trucks which are not domestically manufactured by such manufacturer shall be available to be taken into account with respect to the average fuel economy of passenger automobiles or light trucks which are domestically manufactured by such manufacturer; and

"(B) no credit acquired from another manufacturer under paragraph (4) with respect to either passenger automobiles or light trucks which are not domestically manufactured by such manufacturer shall be available to be taken into account with respect to the average fuel economy of passenger automobiles or light trucks which are domestically manufactured by the acquiring manufacturer.

"(6)(A) The Secretary may prescribe rules for purposes of carrying out the provisions of this subsection.

"(B) Not later than twenty-four months after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall issue rules implementing the credit trading system authorized by paragraph (4). Such rules shall ensure that the transfer of credits does not reduce the average fuel economy of all manufacturers that would result in the absence of such transfers.".

SEC. 3111. CALCULATION OF FUEL ECONOMY FOR LIGHT TRUCKS.—Section 503(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(2)) is amended by adding before the period the following: "that are based upon the method required by this section for calculation of average fuel economy of passenger automobiles".

SEC. 3112. AIRBAG CREDIT FOR SMALL PASSENGER AUTOMOBILES.—(a) AIRBAG CREDIT.—Section 503(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended—

(1) in paragraph (1) by inserting ", subject to paragraph (4)," immediately before "be calculated"; and

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

"(4)(A) If a manufacturer manufactures small passenger automobiles which comply with Federal Motor Vehicle Safety Standard Number 208 by means of airbags for the driver seating position only or for both the driver and front seat outboard seating positions, average fuel economy for purposes of section 502(a) and (c) shall be calculated as provided under subsection (a)(1), except that in the calculation of the sum of terms under subsection (a)(1)(B) the term applicable to any model type of small passenger automobile for which there are automobiles so equipped with airbags shall be determined by adding—

"(i) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for the driver seating position only, by 105 percent of the fuel economy measured for such model type,

"(ii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for both the driver and outboard front seating positions, by 110 percent of the fuel economy measured for such model type, and

"(iii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are not so equipped, by the fuel economy measured for such model type.

"(B) For purposes of this paragraph, the term 'small passenger automobile' means a passenger automobile (i) with a wheel base of less than 100 inches, or with a curb weight of 2,750 pounds or less, and (ii) whose measured fuel economy is at least 35 miles per gallon.".

(b) CONFORMING AMENDMENT.—Section 502(e) of the Motor Vehicle Information and Costs Savings Act (15 U.S.C. 2002(e)) as amended by section 3107 of this Act is amended further by adding at the end the following new paragraph:

"(5) In determining maximum feasible average fuel economy, the Secretary shall not consider the alternative calculation for airbag-equipped passenger automobiles under section 503(a)(4).".

SEC. 3113. EXPLANATORY BOOKLET DISTRIBUTED BY SECRETARY OF ENERGY.—(a) MINIMUM NUMBER OF COPIES DISTRIBUTED.—Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new sentence: "During the 12-month period beginning on the first day of the first month after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to 100 booklets as are reasonably requested by dealers from time to time.".

(b) TECHNICAL AMENDMENTS.—(1) Section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended further by striking "Administrator of the Federal Energy Administration" and inserting "Secretary of Energy".

(2) Section 506(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended by striking "Federal Energy Administrator" and inserting "Secretary of Energy".

SEC. 3114. EXCESSIVE FUEL CONSUMPTION FEE.—The Motor Vehicle Information and Cost Savings Act is amended by striking section 507 (15 U.S.C. 2007) and inserting the following:

"EXCESSIVE FUEL CONSUMPTION FEE

"SEC. 507. (a) If the Secretary determines, on the record after opportunity for agency hearing, that any manufacturer has failed to meet the applicable average fuel economy standards established under section 502(a), (b), or (c), the Secretary shall assess the manufacturer an excessive fuel consumption fee in an amount determined under section 508.

"(b) The amount of the fee shall be assessed by the Secretary by written notice.

"(c)(1) Not later than 30 days after a determination by the Secretary under subsection (a) that a manufacturer has failed to meet any applicable average fuel economy standard under section 502, such manufacturer may apply to the Federal Trade Commission for a certification under this subsection. If the manufacturer shows and the Federal Trade Commission determines that reduction of the fee which the Secretary shall otherwise assess is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such fee is assessed, the Commission shall so certify. The certification shall specify the maximum amount that such fee may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this subsection not later than 90 days after the application is filed with the Commission. A proceeding under this subsection shall not have the effect of delaying the manufacturer's liability under this section for a fee for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this subsection becomes final shall be paid to the court in which the fee is collected, and shall (except as otherwise provided in paragraph (2) be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(2) Whenever a fee has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (1), and the Secretary subsequently determines to reduce such fee pursuant to section 508(c), the Secretary shall direct the court to remit the appropriate amount of the fee to such manufacturer.

"(d)(1) Any manufacturer assessed a fee under this section may obtain review of a determination (i) of the Secretary to assess such fee or (ii) of the Federal Trade Commission under subsection (c) in the United States Court of Appeals for the District of Columbia Circuit, or for any circuit wherein the manufacturer resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any manufacturer fails to pay a fee after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order assessing the fee shall not be subject to review.

"(e) A claim of the United States for a fee assessed against a manufacturer under this section shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to subsection (d)).".

SEC. 3115. AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE.—Subsections (a), (b), (c), and (d) of section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)–(d)) are amended to read:

"AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE

"SEC. 508. (a)(1) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to passenger automobiles manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502(a) or (c), multiplied by the number of passenger automobiles manufactured by such manufacturer during such model year, reduced by (ii) credits available under section 502(1) for such model year.

"(2) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to light trucks manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of the light trucks manufactured by such manufacturer during such model year, multiplied by the number of light trucks to which such standard applies manufactured by such manufacturer during such model year, reduced by (ii) credits available under section 502(1) for such model year.

"(b) For purposes of calculating the amount of any civil penalty under this section, the amount of the base fee shall be—

"For model years:

"Prior to 1993 ..... $5.00

"For model years:

"1993	$10.00
"1996	$20.00
"1997 and thereafter	The amount of the fee applicable in the prior model year as adjusted in accordance with the annual implicit price deflator for the gross national product during such model year.

"(c) The Secretary shall have the discretion to reduce the amount of the fee calculated under this section only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of the manufacturer,

"(2) such manufacturer shows that its failure to meet the standards of section 502 resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that reduction of such fee is necessary to prevent a substantial lessening of competition, as determined under section 507(c).

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount of the base fee which would be used to calculate the fee under subsection (a) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the fee which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher fee may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of fee will not result in substantial deleterious impacts on the economy of the United States or any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of fee will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the fee under subsection (a) be less than the base fee or more than twice the base fee provided by subsection (b).".

SEC. 3116. ESTABLISHMENT OF THE EXCESSIVE RULE CONSUMPTION FUND.—Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended further by adding at the end the following new subsection:

"(f)(1) There is hereby established in the Treasury of the United States a separate fund, to be known as the Excessive Fuel Consumption Fund. The fund shall consist of all fees collected by the Secretary under this section.

"(2) Subject to appropriation, the Secretary of Energy may make expenditures from the Fund for purposes of—

"(A) providing financial assistance to the States in accordance with section 514; and

"(B) funding other energy conservation programs, to the extent that the amount available in the Fund exceeds the amount needed under subparagraph (A).

"(3) The Secretary of the Treasury shall hold the Fund and, after consulting with the Secretary of Transportation and the Secretary of Energy, shall report annually to the Congress on the financial condition and operations of the Fund during the preceding fiscal year. The budget of the Fund shall be included in the Budget of the United States Government."

SEC. 3117. REPORTS TO CONGRESS.—Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end the following two new subsections:

"(d) Within 18 months after enactment of the Motor Vehicle Ruel Efficiency Act of 1991, the Secretary shall prepare and submit to the Congress and the President a report on the extent to which manufacturers may attempt to defeat the purpose of this title by entering into business arrangements whose sole purpose is to manufacture or market automobiles that are less fuel efficient than otherwise required by section 502. Such report shall include consideration of mergers and the manufacture of vehicles and components by one manufacturer for sale under the name of a different manufacturer. Such report shall also include recommendations for legislative and administrative measures to prevent such arrangements from defeating the purpose of this title.

"(e) Within 18 months after enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall prepare and submit to the Congress and the President a report on an alternative method of regulating fuel economy that would base fuel economy standards on automobile characteristics such as size class, exterior size, interior volume, weight, performance, or other characteristics deemed appropriate by the Secretary. The Secretary shall assess in the report the extent to which such a method of regulating fuel economy is likely to achieve overall fuel economy improvement, to promote safety advances, to treat all manufacturers equitably, to be technologically feasible; and to facilitate consumer awareness of fuel economy.

SEC. 3118. SCRAPPAGE OF OLDER VEHICLES.—The Motor Vehicle Information and Cost Savings Act is amended further by adding at the end of thereof the following new section:

"SCRAPPAGE OF OLDER VEHICLES

"SEC. 514. (a) The Secretary of Energy shall provide financial assistance to State programs encouraging the voluntary removal from use and the marketplace pre-1980 model year automobiles.

"(b)(1) Within 180 days after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy, after consulting with the EPA Administrator, shall adopt rules necessary to review and approve State programs that qualify for financial assistance under subsection (a).

"(2) Any rules adopted by the Secretary of Energy under paragraph (1) shall require that to qualify for federal assistance under subsection (a) at least 50 percent of the cost of the program be paid for from State or private funds.

"(c) The Secretary of Energy is authorized, subject to appropriation, to make expenditures from the Excessive Fuel Consumption Fund for purposes of this section.".

SEC. 3119. TECHNICAL AND CONFORMING AMENDMENTS.—(a) DESIGNATION OF THE EPA ADMINISTRATOR.—Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1) is amended by striking "Environmental Protection Agency" and inserting "EPA".

(b) ELIMINATION OF THE SECRETARY'S ADJUSTMENT AUTHORITY.—Section 502(1)(1)(B) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(1)(B)) is amended by striking "any adjustment under subsection (d) or".

(c) DESIGNATION OF THE ENERGY AND COMMERCE COMMITTEE.—Section 503(b)(3)(D)(ii)(II) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(D)(ii)(II)) is amended by striking "Interstate and Foreign Commerce" and inserting "Energy and Commerce".

(d) LEGISLATIVE VETO.—Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004(a)) is amended by striking "(or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to sixty days after the expiration of the sixty-day period specified in section 502(a)(5))".

(e) ALTERNATIVE FUEL CREDIT.—Section 513(g)(2)(B) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013(g)(2)(B)) is amended by striking "502(a)(4) and (f)" and inserting "502(f)".

Mr. JOHNSTON. Mr. President, I submit an amendment that Senator CONRAD and I intend to propose to S. 1220, the National Energy Security Act of 1991, and ask that it be printed and lie on the table.

Mr. President, this amendment relates to corporate average fuel economy [CAFE] standard for automobile fuel efficiency. Under current law, the average fuel economy of all of the passenger cars made by each automaker must be at least 27.5 miles per gallon. The average fuel economy of all of the light trucks made by each automaker must be at least 20.2 miles per gallon.

Most Senators will agree that the automakers can and should do better. Most Senators will also agree that any comprehensive energy legislation approved by this body should contain measures to ensure that fuel economy improves. We differ, however, over just how much improvement is possible and how hard Congress should push the automakers.

With the amendment I submit today, the Senate will have before it three alternative approaches for increasing auto fuel economy.

The first is found in title III of S. 1220, the bill reported by the Committee on Energy and Natural Resources. It directs the Secretary of Transportation to determine the maximum feasible fuel economy the auto industry is capable of achieving, and then to set individual CAFE standards for each automaker based on the industry maximum. S. 1220 provides clear guidelines the Secretary must follow in determining what is the maximum feasible fuel economy the industry is capable of achieving, but, in the end, the determination is left to the Secretary. S. 1220 takes a reasonable and responsible approach, but, in light of the administration's hostility to any increase in CAFE standards, many Senators believe it leaves too much discretion to the Secretary of Transportation.

The second approach is found in S. 279, Senator BRYAN's bill, which was reported by the Committee on Commerce, Science, and Transportation. S. 279 mandates that each automaker increase the fuel efficiency of its cars

and trucks by 20 percent by 1996 and by 40 percent by 2001 compared to its 1988 fuel economy ratings. S. 279 gives Senators the illusion of achieving quantifiable improvement in fuel economy, but it sets requirements without regard to what is technologically feasible or economically practical.

I do not wish to belabor this point today. I have already explained at some length in my additional views in the committee report on S. 1220 (S. Rept. 102–72) why the CAFE standards in S. 279 are unrealistic and unworkable. I will have more to say on this in the weeks ahead as the Senate takes up S. 279. Suffice it to say today that the hearing record built by the Committee on Energy and Natural Resources clearly shows the standards in S. 279 to be insupportable.

That brings us to the third approach, which is embodied in the amendment I submit today. It stands on the middle ground between the first two approaches. Like S. 279 and unlike S. 1220, the amendment sets minimum improvement requirements in the bill itself, rather than leaving them to the discretion of the Secretary of Transportation. Like S. 1220 and unlike S. 279, it anchors future CAFE standards on what is technologically feasible and what is economically practical.

The touchstone of the amendment is that the CAFE requirements it sets are based on objective, professional analysis. They were not picked because they looked tough on the auto industry. They were derived by committee staff with the assistance of the Nation's leading experts in this field, based upon reasonable criteria and assumptions about the nature of the auto fleet.

It is not my intent to go through the analysis we used to derive these numbers today. It is already fully explained in my additional views, which can be found on pages 366 through 408 of the report of the Committee on Energy and Natural Resources on S. 1220 (S. Rept. 102–72). I urge all Senators to read that explanation in preparation for the debate on CAFE standards.

Mr. President, this amendment is not new. I offered it twice in the Committee on Energy and Natural Resources. Twice a coalition of committee members who thought it went too far and committee members who thought it did not go far enough voted it down.

I intend to offer the amendment when the Senate takes up S. 1220 for the simple reason that it takes the most responsible approach toward raising CAFE standards. I am confident that once the Senate has had an opportunity to debate the issue fully, a majority of Senators will see that and support the amendment.

Mr. President, I firmly believe that the changes in the CAFE law must be made in order to decrease our dependence on imported oil. For this reason, I offer a tough, yet reasonable, alternative to the bill language, that is to the language contained in S. 1220. I intend to offer this amendment again when the full Senate considers the bill.

The Johnston CAFE amendment, which is being offered along with Senator KENT CONRAD of North Dakota, would require the following standards for the automobile fleet as a whole: 30.2 miles per gallon in 1996; 34 miles per gallon in 2001, and 37 miles per gallon in 2006. This compares with the current standard of 27.5 miles per gallon. The standards in the Johnston-Conrad amendment were developed in consultation with the Office of Technology Assessment and its contractor, Mr. K.G. Duleep, arguably the Nation's foremost expert in this field.

Mr. President, I ask unanimous consent that a section-by-section analysis of title III of S. 1220 as it would be amended by my amendment be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF TITLE III OF S. 1220 AS AMENDED BY JOHNSTON (AND CONRAD) AMENDMENT NO. 752

Section 3101. This section provides that Title III may be cited as the "Motor Vehicle Fuel Efficiency Act of 1991."

Section 3102. This section adds definitions of "light truck" and "vehicle class" to the definition section of the Motor Vehicle Information and Cost Savings Act (the "MVICSA") (15 U.S.C. 2001). "Light trucks" is used in place of the term "automobiles which are not passenger automobiles" used in section 502(b) and elsewhere in the existing MVICSA and is defined to mean the same thing. The term encompasses pick-up trucks, mini-vans, and jeeps. "Vehicle class" is defined to mean either all passenger automobiles or all light trucks.

Section 3103. This section amends section 502(a) of the MVICSA, which sets average fuel economy ("CAFE") standards for passenger automobiles. Section 3103 amends section 502(a) as follows:

New section 502(a)(1) omits existing standards for model years 1978 through 1991, preserves existing standards for model years 1992 through 1995, and adds new ones for model years 1996 through 2000, 2001 through 2005, and 2006 and thereafter. The new standards are to be determined in accordance with new section 502(a)(2).

New section 502(a)(2) requires the Secretary of Transportation (the "Secretary") to set individual CAFE standards for each manufacturer for model years 1996 through 2000, 2001 through 2005, and 2006 and thereafter by rule within 18 months after the date of enactment. Subsection (a)(2) of the current MVICSA, which requires the Secretary to prepare reports related to meeting the 1985 model year CAFE standard, is deleted as obsolete.

New section 502(a)(3)(A) requires the Secretary to set CAFE standards under section 502(a) at the "maximum feasible" level, which is determined under new subsection (d) (as amended by section 3106).

New section 502(a)(3)(B) prescribes minimum and maximum miles-per-gallon standards for each period. Any CAFE standard established by the Secretary for any manufacturer under section 502(a) must fall within the range prescribed by section 502(a)(3)(B).

Subsections 502 (a)(4) and (a)(5) of the existing MVICSA are deleted as unnecessary in light of new subsection (a)(3). (Subsection (a)(4) authorized the Secretary to set CAFE standards for the 1985 model year and thereafter at the maximum feasible level, notwithstanding the 27.5 miles-per-gallon level prescribed by existing law. Subsection (a)(5) prescribed the time in which Congress could veto the Secretary's new standards.)

Section 3104. This section amends section 502(b) of the existing MVICSA, which directs the Secretary to set CAFE standards for light trucks. Section 3104 amends section 502(b) as follows:

New section 502(b)(1) retains the Secretary's authority under existing subsection (b) to set maximum feasible CAFE standards for light trucks, but provides that the Secretary may exercise the existing authority only through model year 1995.

New section 502(b)(2) requires the Secretary to set individual CAFE standards for each manufacturer's light trucks for model years 1996 through 2000, 2001 through 2005, and 2006 and thereafter by rule within 18 months after the date of enactment.

New section 502(b)(3)(A) requires the Secretary to set CAFE standards under section 502(b) at the "maximum feasible" level, which is determined under new subsection (d) (as amended by section 3106).

New section 502(b)(3)(B) prescribes minimum and maximum miles-per-gallon standards for each period. Any CAFE standard established by the Secretary for any manufacturer under subsection 502(b) must fall within the range prescribed by section 502(b)(3)(B).

Section 3105. This section amends section 502(c) of the existing MVICSA. Section 502(c) now authorizes the Secretary to prescribe CAFE standards that are less stringent than those set in the statute for any manufacturer of less than 10,000 passenger automobiles that is unable to meet the statutory standard. Section 3105 permits the Secretary to use this authority only through model year 1995.

Section 3106. This section strikes section 502(d) of the existing MVICSA. Section 502(d) authorized the Secretary to amend CAFE standards for model years 1978, 1979, and 1980, and thus is obsolete. In its place, section 3106 adds a new section 502(d) that sets forth how the Secretary is to calculate the new CAFE standards that are called for in the new sections 502(a)(2) and 502(b)(2).

New section 502(d)(1) prescribes a method of calculating CAFE standards for individual manufacturers that requires each manufacturer to increase its average fuel economy by the same percentage of its current (1990 model year) CAFE level. Subsection (d)(1) does this by directing the Secretary to calculate the new CAFE standards for each manufacturer by:

(A) Determining the maximum feasible CAFE level for the entire vehicle class under new section 502(e);

(B) Dividing the maximum feasible CAFE level for the vehicle class (determined under section 502(d)(1)(A)) by the average fuel economy of vehicles of that class manufactured in model year 1990 (determined under section 503 of the existing MVICSA); and

(C) Multiplying either the quotient from section 502(d)(1)(B) or the minimum percentage increase prescribed by section 502(d)(1)(C)(ii), whichever is greater, by the average fuel economy of automobiles manufactured by each manufacturer in model year 1990 (determined under section 503).

New section 502(d)(2) allows the Secretary to apply different percentage increases (i.e.,

the quotient determined under subsection (d)(1)(B)) to different vehicle classes, but requires the Secretary to use the same percentage increase for each manufacturer of vehicles within the same class.

New section 502(d)(3) authorizes the Secretary to adjust a manufacturer's model year 1990 fuel economy level used to calculate the new CAFE standards (the manufacturer's "baseline") if necessary to remove artificial competitive advantages among manufacturers, provided that the adjustment does not reduce the overall fuel economy of all manufacturers collectively.

New section 502(d)(4) permits the Secretary to determine a CAFE standard for a manufacturer's vehicle class that was not made in model year 1990 (a so-called "new entrant"). The standard must be at least equal to the maximum feasible fuel economy of the industry as a whole for that class, but can be no higher than the highest CAFE standard of a manufacturer that did produce vehicles of the class in model year 1990.

Section 3107. This section amends section 502(e) of the MVICSA. The current section 502(e) authorizes the Secretary to consider technological feasibility, economic practicability, the effect of other Federal standards on fuel economy, and the need to save energy in determining maximum feasible CAFE levels. Section 3107 preserves these considerations, but redesignates the first sentence of the existing subsection (e) as (e)(1) and the second sentence, which was added by Public Law 100-494 in 1988, as (e)(5). Section 3107 also adds three new paragraphs as follows:

New section 502(e)(2) requires the Secretary, in determining what constitutes "maximum feasible" fuel economy under new section 502(d) to assume manufacturers will use the "maximum practical achievable" fuel-saving technology. Subsection (e)(2) defines the concept of "maximum practical achievable" fuel-saving technology in terms of—

(A) The use of all economically practicable fuel-saving technologies that are capable of being commercialized by the first model year of the appropriate period;

(B) Maintaining the performance levels achieved in model year 1990; and

(C) Maintaining the size mix and interior volume of the 1990 model year.

New section 502(e)(3) also requires the Secretary, in determining what constitutes "maximum feasible" fuel economy to assume that all vehicles will meet applicable emission requirements and applicable safety standards.

New section 502(e)(4)(A) require the Secretary to reevaluate "maximum feasible" fuel economy determinations for model years 2001 through 2005 five years before the standards go into effect and for model year 2006 and thereafter both five and ten years before they go into effect.

New section 502(e)(4)(B) authorizes the Secretary to raise or lower the minimum percentage increases otherwise required and to amend, in accordance with section 502(f) any CAFE standard set under section 502 (a), (b), or (c).

New section 502(e)(4)(C) limits the Secretary's authority under section 502(e)(4)(B) to decrease a minimum percentage increase required by section 502(d)(1)(C)(ii) to: one mile per gallon for model years 1996 through 2000; two miles per gallon for model years 2001 through 2005; and three miles per gallon in for model years 2006 and thereafter.

Section 3108. This section makes conforming amendments to section 502(f) of the existing MVICSA. Section 502(f) permits the Secretary to change CAFE standards so long as the new standard requires manufacturers to meet the maximum feasible CAFE level.

Section 3109. This section makes a conforming amendment to section 502(h) of the existing MVICSA. Section 502(h) specifies that informal hearing procedures under the Administrative Procedure Act apply to proceedings to set or change CAFE standards under the MVICSA.

Section 3110. This section amends section 502(l) of the MVICSA to allow for credit trading. The current section 502(l) awards credits to manufacturers whose fuel economy exceeds the applicable CAFE standard. The amount of credits is equal to the number of tenths of a mile per gallon by which the manufacturer's average fuel economy (as measured by section 503) exceeds the applicable CAFE standard, multiplied by the total number of vehicles of the applicable class manufactured by the manufacturer during the applicable model year. Under current law, these credits can then be used to offset the manufacturer's failure to meet applicable CAFE standards in prior or subsequent years up to three years before or up to three years after the credit is earned.

Subsection 3110(a). This subsection amends section 502(l)(1)(B)(i) to extend from three to five years the time a manufacturer has to "pay back" credits borrowed to meet CAFE standards one year in anticipation of exceeding CAFE standards in a later year.

Subsection 3110(b). This subsection amends section 502(l)(1)(B)(ii) to provide that credits earned in model year 1996 and thereafter can be used indefinitely (instead of for just three years) to offset future failures to meet applicable standards.

Subsection 3110(c). This subsection makes conforming amendments to section 502(l)(2) to substitute the term "light trucks" for "automobiles which are not passenger automobiles."

Subsection 3110(d). This subsection makes conforming amendments to section 502(l)(3) to substitute references to the excessive fuel consumption fee for the current civil penalty.

Subsection 3110(e). This subsection redesignates section 502(l)(4), which authorizes the Secretary to prescribe rules implementing the credit system, as new section 502(l)(6)(A) and adds new sections 502(l)(4), (5), and (6)(B).

New section 502(l)(4) authorizes manufacturers to trade credits awarded under section 502(l).

New section 502(l)(5) imposes certain restrictions on such trades. The new section 502(l)(5) forbids use of credits earned with respect to vehicles produced abroad to meet CAFE requirements applicable to vehicles produced domestically.

New section 502(l)(6), in addition to preserving the Secretary's existing rulemaking authority, directs the Secretary to issue rules implementing the credit trading system. Section 502(l)(6)(B) provides that the credit system may not be used to reduce overall fuel economy.

Section 3111. This section clarifies how average fuel economy for light trucks is to be calculated. Existing section 503(a)(2) provides merely that the Secretary is to calculate light truck average fuel economy according to rules adopted by the Environmental Protection Agency. Section 3111 requires that these rules be based on the method prescribed in section 503(a)(1) for calculating average fuel economy for passenger automobiles.

Section 3112. This section amends current section 503(a) to provide a credit for manufacturers who install airbags in small passenger automobiles. Small passenger automobiles are defined as cars with: (i) either a wheelbase of less than 100 inches or a curb weight of 2,750 pounds or less; and (ii) a measured fuel economy of at least 35 miles per gallon.

Subsection 3112(a). This subsection increases the fuel economy rating of small passenger automobiles equipped with a driver-side airbag by five percent and that of small passenger automobiles equipped with both driver-side and passenger-side airbags by ten percent for purposes of calculating average fuel economy under existing section 503.

Subsection 3112(b). This subsection provides that, for purposes of calculating the maximum feasible CAFE levels under section 502(e), the Secretary may not take into consideration the credit manufacturers can receive under section 3112(a) for installing airbags in small cars.

Section 3113. This section amends section 506(b) of the existing MVICSA. Section 506(b) now requires the Environmental Protection Agency to prepare, and the Department of Energy to distribute, each model year, a booklet on fuel economy.

Subsection 3113(a). This subsection requires the Department of Energy to distribute at least 100 copies, and as many more as may reasonably be requested, to every automobile dealer each year.

Subsection 3113(b). This subsection changes references to the "Federal Energy Administrator" in current law to the "Secretary of Energy."

Section 3114. This section provides financial incentives for meeting CAFE standards. Under section 507 of the existing MVICSA, failure to meet CAFE standards is unlawful and punishable by imposition of a civil penalty under existing section 508. Section 3114 strikes existing section 507 and, in its place, authorizes the Secretary to levy an "excessive fuel consumption fee" on manufacturers who fail to meet applicable CAFE standards. Section 3114 amends section 507 as follows:

New section 507(a) authorizes the Secretary to levy the excessive fuel consumption fee on manufacturers who fail to meet applicable CAFE standards in amounts provided by section 508 (as amended by section 3115).

New section 507(b) provides that the amount of the fee is to be assessed by written notice.

New section 507(c)(1) gives any manufacturer assessed a fee the right to request the Federal Trade Commission to review the effect of the fee on competition in the automobile industry. Subsection (c)(1) is intended to preserve with respect to imposition of the excessive fuel consumption fee the same rights a manufacturer now has with respect to the imposition of a civil penalty under current section 508(b)(4).

New section 507(c)(2) provides for repayment of all or part of any fee collected from a manufacturer while the Federal Trade Commission is reviewing the imposition of such fee if, upon completion of the Commission's review, the Secretary decides to reduce or eliminate the fee. Subsection (c)(2) is intended to preserve with respect to the imposition of the excessive fuel consumption fee the procedure for remitting civil penalties under current section 508(b)(5).

New section 507(d)(1) provides for judicial review of any fee assessed under subsection (a) or any Federal Trade Commission decision under subsection (c) in the United States Court of Appeals for the District of Columbia Circuit. Subsection (d)(1) is in-

tended to provide the same right of judicial review of decisions resulting in the imposition of the excessive fuel consumption fee that current section 508(c)(1) now provides for civil penalties.

New section 507(d)(2) authorizes the Justice Department to file suit in United States district court to recover any excessive fuel consumption fee if the manufacturer otherwise fails to pay it. The new subsection (d)(2) is intended to provide the same procedure for the collection of the excessive fuel consumption fee that current section 508(c)(2) now affords for collection of civil penalties.

New section 507(e) gives claims for excessive fuel consumption fees the same priority in bankruptcy proceedings that claims for civil penalties now possess under current section 508(b)(6).

Section 3115. This section strikes the first four subsections (but not subsection (e)) of the existing civil penalty provision, section 508. In their place, section 3115 adds four new subsections that set forth how the excessive fuel consumption fee is to be calculated.

New section 508(a) establishes the amount of the fee for failure to meet applicable CAFE standards. Paragraph (1) applies to fees for failing to meet passenger car CAFE standards. Paragraph (2) applies to fees for failing to meet light truck CAFE standards. Both provide that the amount of the fee is determined by multiplying the following three numbers:

The number of tenths of a mile-per-gallon by which the manufacturer has failed to meet the applicable CAFE standard;

The number of vehicles in the applicable vehicle class manufactured by the manufacturer during the applicable model year; and

The amount of the base fee provided in the new subsection (b).

The resulting figure may be reduced by any credits the manufacturer has.

New section 508(b) sets out the amount of the base fee used to calculate the excessive fuel consumption fee under subsection (a). Initially, the base fee is five dollars, which is the amount of the base civil penalty under existing section 508(b)(1). The base fee doubles to ten dollars in model year 1993 and it doubles again to twenty dollars in model year 1996. In each model year thereafter, the amount of the fee is adjusted to reflect inflation.

New section 508(c) gives the Secretary power to reduce the amount of the fee if—

Necessary to prevent insolvency or bankruptcy of the manufacturer;

Failures to meet the standard was beyond the manufacturer's control; or

The Federal Trade Commission certifies (under section 507(c), as amended by section 3114) that the fee would result in substantial harm to competition in the automobile industry.

The Secretary's authority to reduce fees under the new subsection (c) is coextensive with the Secretary's current authority to reduce civil penalties under the existing section 508(b)(3).

New section 508(d) gives the Secretary power to increase the amount of the base fee, up to twice the amount provided in new subsection (b), provided that any such increase will further energy conservation and will not substantially harm the economy of the nation or of any state or region. The Secretary's authority to increase fees under new subsection (d) is coextensive with the Secretary's current authority to increase civil penalties under existing section 508(d). Any increase under this subsection must be accomplished through a rulemaking.

The legislation preserves existing section 508(e), which provides procedures for public notice, comment, and hearings on, and for judicial review of, any rule under subsection (d).

Section 3116. This section adds a new subsection (f) to section 508 of the MVICSA.

New section 508(f)(1) establishes a separate fund in the Treasury, in which the excessive fuel consumption fees collected under the new section will be deposited.

New section 508(f)(2) authorizes the Secretary of Energy, subject to appropriations, to use the funds deposited in the special fund to finance older vehicle scrappage programs under section 3117. To the extent money is available beyond what is needed for scrappage programs, it can be used to fund other energy conservation programs.

New section 508(f)(3) directs the Secretary of the Treasury to manage the fund, and to report to Congress on its status annually.

Section 3117. This section adds two new subsections to section 512 of the existing MVICSA to require the Secretary to prepare two reports.

New section 512(d) requires the Secretary to prepare a report on the extent to which manufacturers may attempt to defeat new CAFE requirements by entering into artificial business arrangements (known as "gaming").

New section 512(e) requires the Secretary to prepare a report on an alternative method of regulating fuel economy that would base fuel economy standards in size class, exterior size, interior volume, weight, performance, or other characteristics.

Section 3118. This section adds a new section 514 to the MVICSA.

New section 514(a) authorizes the Secretary of Energy to provide financial assistance to state programs designed to retire pre-1980 automobiles. This section is intended to remove the least energy efficient vehicles from use.

New section 514(b)(1) directs the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, to adopt rules necessary to review and approve state programs qualifying for assistance under section 514(a). Paragraph (2) requires that, to receive Federal assistance under this section, at least half of the cost of any programs must be paid from state or private funds.

New section 514(c) authorizes the Secretary of Energy to use funds appropriated from the Excessive Fuel Consumption Fund established under section 508(f) (as amended by section 3116) for scrappage programs under this section.

Section 3119. This section makes technical and conforming changes to the MVICSA.

TITLE X PREGNANCY COUNSELING ACT

CHAFEE AMENDMENT NO. 753

Mr. CHAFEE proposed an amendment to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

"(a) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that pregnant women receiving services from projects funded under this title are provided with information and nondirective counseling services, and referral services upon request, concerning all legal and medical options regarding their pregnancies. Women requesting information or nondirective counseling under this section regarding the options for the management of an unintended pregnancy shall be provided with nondirective counseling, and referral on request, concerning alternative courses of action that may include—

"(1) prenatal care and delivery; and

"(2) infant care, foster care, or adoption services; and

"(3) pregnancy termination.

If, in the case of a woman requesting such information and nondirective counseling, an ectopic pregnancy or other immediate threat to the women's health is suspected, such woman must be referred for immediate diagnosis and therapy.

"(b) EXEMPTION FOR RELIGIOUS BELIEFS OR MORAL CONVICTIONS.—

"(1) IN GENERAL.—No project, or individual employed or associated with such project, may decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), except where the provision of such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the project or individual.

"(2) FACILITIES AND PERSONNEL.—A project that, as provided for in paragraph (1), declines to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), may not be required to—

"(A) make its facilities available for the provision of such information, nondirective counseling or referral services; or

"(B) provide any personnel for the provision of such information, nondirective counseling or referral services.

"(c) REQUIREMENT OF REFERRAL.—If a project or individual is exempt pursuant to subsection (b) from the requirement of providing information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), such project or individual shall advise the patient of that fact and refer such patient to another individual within the same project, or if another such individual is unavailable, to another project, that provides such information, nondirective counseling or referral services.

"(d) PROHIBITION AGAINST DISCRIMINATION.—A project receiving assistance under this title after the date of enactment of this section shall not—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel; or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel;

because such physician or other health care personnel has provided information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2), or (3) of subsection (a) or refused to provide such information, nondirective counseling or referral services on the grounds that such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the physician or health care personnel, or because of the religious beliefs or moral convictions of the physician or health care personnel with respect to such information, nondirective counseling or referral services.

"(e) NONTERMINATION OF GRANT.—No project may be denied funding, or be terminated, under this title based on the decision of such project to provide or decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a). The burden of proof shall be on the entity or official making the determination to deny funding or terminate the project to demonstrate that such denial or termination is not based on the decision by such project to provide or decline to provide such information, nondirective counseling or referral services.

"(f) ACCESSIBILITY OF SERVICE.—A grantee under this title shall ensure that information, nondirective counseling or referral services on each of the subjects described in paragraphs (1), (2) or (3) of subsection (a) is available at an adequate number of projects assisted by such grantee under the grant within the geographic area served, or otherwise provide access to such information, nondirective counseling or referral services at another entity within the grantee's geographic area which will provide such services under the same financial eligibility criteria as projects assisted under this title.

"(g) DEFINITION.—For purposes of this section, the term 'project' means an entity that provides family planning services with funds received under this title under a negotiated, written agreement with a grantee.".

DURENBERGER AMENDMENT NO. 754

Mr. DURENBERGER proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

On page 1 of the amendment, strike out line 3 and all that follows through the end of the amendment, and insert in lieu thereof the following:

SECTION 1. REQUIREMENT FOR MEDICAL REFERRALS OF PREGNANT INDIVIDUALS BY FAMILY PLANNING PROJECTS RECEIVING TITLE X FUNDING.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. REFERRALS OF PREGNANT INDIVIDUALS FOR MEDICAL CARE.

"(a) REQUIREMENT.—Except as provided in subsection (b), entities receiving financial assistance under this title (whether by grant or contract) shall be required to refer individuals who are pregnant for appropriate prenatal medical care, by furnishing such individuals with a list of available health care providers. Such list may include available prenatal care providers who perform abortions, but shall not include providers whose principal business is the provision of abortions.

"(b) EMERGENCY CARE.—In cases in which a pregnant individual is determined to need emergency medical care, an entity receiving financial assistance under this title shall only be required to refer the individual immediately to an appropriate provider of emergency medical services.".

COCHRAN AMENDMENT NO. 755

Mr. COCHRAN proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. CLARIFICATION REGARDING THE PROVISION OF INFORMATION CONCERNING PREGNANCY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health professional providing services in any project receiving assistance under title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding an unintended pregnancy.

(b) CONSTRUCTION.—Nothing in this or any other Act shall be construed to permit projects receiving assistance from the Federal Government to encourage or promote abortion as a method of family planning.

COATS AMENDMENT NO. 756

Mr. COATS proposed an amendment to the bill S. 323, supra, as follows:

At the end of the amendment, add the following new section:

SEC. . PARENTAL NOTIFICATION REGARDING ABORTION.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary may not make a grant under this section unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

"(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provided to the parent, except that notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dwelling house or usual place of abode (as defined by rule 4 of the Federal Rules of Civil Procedure for the United States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

"(2) The physician with principal responsibility for making the decision to perform the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent her death and there is insufficient time to provide the required notice.

"(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by the applicable State law, provided that in any such case the physician notifies the authorities specified by such State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

"(4) The entity complies with an applicable State or local law that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.".

MITCHELL (AND OTHERS) AMENDMENT NO. 757

Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM) proposed an amendment, which was subsequently modified, to amendment No. 756 proposed by Mr. COATS to the bill S. 232, supra, as follows:

Strike all after the first word and insert the following:

—. ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(1) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order as described in paragraph (3),

granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interest of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

MITCHELL (AND OTHERS) AMENDMENT NO. 758

Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM) proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

At the end of the Chafee amendment add the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expendited judicial procedures that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interest of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

NICKLES AMENDMENT NO. 759

Mr. NICKLES proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

At the appropriate place, add the following new section:

"SEC. . Nothing in this Act shall be construed to invalidate, nullify or amend regulations published at 42 CFR 59.9 and 59.10."

HATCH AMENDMENT NO. 760

Mr. HATCH proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

On page 6, after line 4, add the following new subsection:

(h) PROVISION OF STATISTICS.—A project receiving assistance under title X of the Public Health Service Act shall maintain statistics concerning the referrals of pregnant women to whom such project has provided information, counseling or referral under subsection (a). Such project shall, on a quarterly basis, prepare and submit to the Secretary of Health and Human Services a report containing the statistics maintained by the project under this subsection for the quarter for which such report is submitted. The Secretary shall ensure that no records are maintained by such project which include the names of individual women and the referrals requested by such women.

PEACE AND DEVELOPMENT IN THE HORN OF AFRICA

PELL AMENDMENT NO. 761

Mr. FORD (for Mr. PELL) proposed an amendment to the bill (S. 985) to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region, as follows:

On page 12, line 10, strike the "." and insert the following: "subject to amounts provided in advance in an Appropriations Act."

IMPROVEMENTS IN THE OPERATION OF THE UNITED STATES COURT OF VETERANS APPEALS

CRANSTON AMENDMENT NO. 762

Mr. FORD (for Mr. CRANSTON) proposed an amendment to the bill (H.R. 153) to amend title 38, United States Code, to make miscellaneous administrative and technical improvements in the operation of the United States Court of Veterans Appeals, and for other purposes, as follows:

On page 6, between lines 11 and 12, insert the following new section:

SEC. 7. ACCEPTANCE OF VOLUNTARY SERVICES AND GIFTS BY THE UNITED STATES COURT OF VETERANS APPEALS.

Section 7281 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(i) The Court may accept and utilize voluntary services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.".

On page 6, line 12, strike out "7" and insert in lieu thereof "8".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Tuesday, July 16, 1991, at 11 a.m., on the subject: Review and evaluation of Secretary Mosbacher's decision on the 1990 census adjustment.

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

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, July 16, 1991, at 9:30 a.m. The committee will hold a full committee hearing to receive the Holloway-Werner Report, an independent review of the Small Business Administration's Small Business Investment Companies Program.

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 Tuesday, July 16, 1991, at 7 p.m. to hold a closed meeting on intelligence matters.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 16, 1991, at 9:30 a.m., on reauthorization and oversight of the Rail Safety Program.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 16, 1991, at 2:30 p.m. on S. 1166, S. 471, and 900 numbers.

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 Tuesday, July 16, 1991, at 4 p.m. to complete markup on the fiscal years 1992-93 Department of Defense authorization bill.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on readjustment problems of Persian Gulf war veterans and their families at 10 a.m. on Tuesday, July 16, 1991, in SH-216.

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 Tuesday, July 16, at 9:30 a.m., to hold a hearing on the Conventional Forces in Europe [CFE] Treaty, Treaty Doc. 102-8. Secretary Cheney and General Powell will be our witnesses.

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

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH, AND DEVELOPMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, July 16, beginning at 2:30 p.m., to conduct a hearing on legislation to reauthorize the Environmental Protection Agency's Research and Development Program.

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

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on July 16, 1991, at 10 a.m. to hold a hearing on the taxation of limited partnership rollups.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, July 16, 1991, at 9:30 a.m., to hold a hearing on oversight of legislative and executive lobbying disclosure.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be author-

ized to meet during the session of the Senate on Tuesday, July 16, 1991, at 9 a.m., for a hearing on "Access to Higher Education: Increasing Pell Grants and Widening Opportunities."

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 Tuesday, July 16, at 2:30 p.m., to hold a nomination hearing on Robert Strauss to be Ambassador to the Soviet Union.

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

ADDITIONAL STATEMENTS

PEOPLES BANK CELEBRATES 100 YEARS OF SERVICE

• Mr. LUGAR. Mr. President, I rise today to commend Peoples Bank for 100 years of service to the citizens of Indianapolis, IN. In 1891, Felix T. McWhirter founded Peoples Bank with a philosophy of customer service and a commitment to strength and security. That tradition has continued down through the years from Felix McWhirter to his great, great grandson and Peoples Bank's current president, William "Mac" McWhirter.

For a century, Peoples Bank has remained customer-centered. Through local ownership and family involvement, the bank has maintained its philosophy of conservative banking practices to ensure the safety of its depositors, while implementing current innovations in the banking industry. Peoples Bank has a heart for service—to its clients and its community. Peoples maintains the traditions that have been a hallmark in the Indianapolis financial arena for so long.

I congratulate Peoples Bank and the McWhirter family for their continued commitment to Indianapolis, as they begin their second century of leadership in the community.•

ONE CHINA GETS MFN, THE OTHER DESERVES GATT

• Mr. SIMON. Mr. President, Arthur Waldron, an author who deals with the subject of China, had a column in the Wall Street Journal some weeks ago that said "The major powers should move to upgrade their relations with Taipei. They should support Taipei's entrance into the General Agreement on Tariffs and Trade. They should involve Taipei in international economic and security consultations."

The column was written some weeks ago but makes as much sense today as it did when it first appeared.

I urge my colleagues to read the Arthur Waldron column, and I ask that it be printed in the RECORD at this point.

The column follows:

[From the Wall Street Journal, May 29, 1991]

ONE CHINA GETS MFN, THE OTHER DESERVES GATT

(By Arthur Waldron)

Earlier this month a young lawyer from Taiwan named C.V. Chen met in Beijing with the elderly Chinese Vice Premier Wu Xueqian. It was an unprecedented encounter, signaling changes in the relationship between Taipei and Beijing that may prove as important for Asia as the end of the Berlin Wall was for Europe.

Mr. Chen and 13 colleagues represented a new body called the Straits Exchange Foundation that Taipei has created to deal "unofficially" with Beijing, just as its Coordination Council for North American Affairs deals "unofficially" with Washington. For Taipei, this is a promising move.

It is essential that the U.S. watch these developments closely and do all it can to foster their peaceful progress. For the possibility of conflict in the Taiwan Strait remains real, and could even increase if the cautious reconciliation between Taipei and Beijing fails. That reconciliation will proceed more smoothly if both China and Taiwan are full-fledged members of the international community. President Bush's decision this week to extend, with restrictions, China's most favored nation trading status is important in furthering that end. What is now needed are steps to end Taiwan's isolation.

That Taipei cannot handle its key relationships with Washington and Beijing through regular diplomatic channels is a measure of just how severe its diplomatic setbacks have been over the past 20 years, as nation after nation has derecognized it. Mr. Chen's visit, however, suggests that this process of marginalization is being reversed. The envoy from Taipei represents a government whose leverage and confidence are increasing. The government of his Chinese host is watching its once formidable international clout dwindle.

From this changing balance of power comes both promise and risk. The promise is that Taiwan—wealthy, militarily strong and increasingly democratic—will find the confidence to compromise with China. The risk is that the government of the People's Republic, beleaguered at home and increasingly ignored internationally, will be unwilling to accept Taiwan's best offer, and instead try for the whole cake.

The risk is intensified by the fact that competition between Taiwan and the mainland is not just between governments, but between two kinds of Chinese societies. The meeting between C.V. Chen and Wu Xueqian suggests how much the psychological equation between the two Chinas has shifted. On the vexing issue of whether Beijing is the "central" government and Taipei a "local" one, Mr. Chen said the issue is not one of territorial size or population but of system. The choice, he said, has to be made by the Chinese people.

A decade ago most observers would have argued that the Chinese people had already made their choice—communism. But the democracy movement of 1989 showed that is not the case, and the Tiananmen massacre showed how far the Chinese government was willing to go to hold on to power. Talks between Taiwan and China present a diplomatic version of the same set of issues.

Policy toward Taiwan (and also Hong Kong) is a bone of contention in internal Chinese politics. For hard-liners, the incorporation of both territories into the People's Republic on Beijing's terms is part of the oldtime religion of communism. Hence increasing intervention in Hong Kong's affairs and the unwillingness to drop the threat of force against Taiwan. For reformers, Taiwan (and Hong Kong) are sources of capital, ideas and leverage. The reformers welcome contacts, in the hope that they will push the mainland forward, and are not particular about points concerning the status of governments, flags, etc. that regularly hang up negotiations.

The strength of this second group in China is cause for long-term optimism. But as long as it is stalemated by hard-liners, no decisive breakthrough in Taiwan-China negotiations is likely. The longer the situation remains unresolved, however, the greater the risk that things will go sour.

Thus there is a danger that frustration in negotiations will strengthen extremists on both sides of the strait in ways that could lead to confrontation. It is not hard to evision nightmare scenarios. Suppose that Beijing, troubled by unrest at home, decided that some saber-rattling (say, a blockade) to "liberate" Taiwan was just the patriotic tonic China needed? Or that elections in Taiwan produced a government that gave up on China and decided instead to declare the island independent? Under such circumstances Beijing has promised to respond with force.

No such scenario offers much comfort. Unlike Iraq, China is a nuclear power; unlike Kuwait, Taiwan can resist. The U.S. and Japan would become involved.

These are not pleasant prospects, and enough people understand them well enough that they will probably be avoided. But they serve to remind us that what happens between China and Taiwan is not simply an Asian curiosity: It is something in which the world has a stake.

Is there anything constructive the world powers can do? The key variable is internal politics on both sides of the Taiwan Strait, and in each case the threat comes from extreme or uncompromising positions. China is difficult to influence, but at a minimum we must strive to maintain contacts and confidence—such as MFN status. In Taiwan, the danger is that a Taiwan isolated from the world community and unable to be Chinese except on Beijing's terms will opt for independence.

Avoiding this means bringing Taiwan back into the world community. The major powers should move to upgrade their relations with Taipei. They should support Taipei's entrance into the General Agreement on Tariffs and Trade. They should involve Taipei in international economic and security consultations.

China is hostile to this approach. So are hard-liners in Taiwan. But it's the only way to strengthen the moderates on both sides and help the world avoid some very real perils.•

MALAISE AMERICANA

• Mr. HOLLINGS. Mr. President, recently I received an interesting analysis from Donald Bedell addressing the decline in the American standard of living. Mr. Bedell confronts the increase in plant closings, worker layoffs, and the slump in family incomes, as compared to the steady rise in the consumer price index. He claims that even with the problems facing our economy, many citizens are remaining

indifferent to the negative results. He also gives his reasons for the international trade deficit. I would like to share this study with my colleagues by asking that the text of Mr. Bedell's report be printed in the RECORD.

The report follows:

MALAISE AMERICANA OR WHEN DOES AMERICA GET PAID OFF FOR ITS INCREASED INTERNATIONAL TRADE?

President Carter was roundly criticized and ridiculed in the late 1970s when he observed that a shroud of malaise had fallen on Americans. The meaning of the word itself, a vague sense of debility or mental ill-being or of cynicism and despair, was difficult to explain in universally acceptable terms. Perhaps he believed that Americans were frustrated and worried about the nations' economic course. He must have been concerned that Americans seemed indifferent to the gradual decline in their own productivity standard of living. Surely he had in mind the lethargic ambivalence of citizens to focus on crime, drug and education crises.

No qualitative measurement is likely for such an imprecise word. But, President Carter was more perceptive than many critics because economic indicators even then were beginning to offer what has now become compelling evidence that something in the nation's will to excel has been missing for two decades.

Its more than coincidence that one manifestation of the "malady" would be that labor productivity began a competitive slide in 1972 and has "declined relative to that of other Summit 7 countries," up to 1986, the latest year for which comparable data are available, according to the Council on Competitiveness in Washington. Not surprisingly, recent economic literature increasingly relates productivity decline to a slowdown in standard of living improvements.

Very clear evidence of emerging but subtle uncertainty about the future on the part of growing numbers of citizens began more than 20 years ago. The signal was the start of a drop in average weekly manufacturing earnings in real terms which began in the mid-1970s as reported by the Labor Department. The slide has continued through 1988 with an average annual loss of 1.25% in 1977 dollars. The intrusive drum beat of plant closings and worker layoffs, combined with the withering of once proud communities added a further element of despair across major economic and demographic segments of America.

The increasing role of women in the work place is correctly hailed as an expression of their desire to seek personal identity and recognition. No one seriously believes, however, that economic need was not a significant factor in the rise of the two income family.

In the face of these real and psychological depressants Americans were faced with a steady rise in the Consumer Price Index. For example, for each of the 15 years between 1975 and 1989 disposable per capita personal income fell behind the Consumer Price Index (CPI) by 5.5 percent in current dollars! For example, in the same period, average manufacturing weekly income rose about 8 percent per year in current dollars while the CPI rose by 18.4 percent per year.

Added to these somber events, there appeared across the land during this period a proliferation of newspaper, television and radio reports that family incomes in major segments of the nation were declining. In 1987 the Labor Department confirmed, in a disturbing socio-economic study, that the core of middle class households in America, those between $20,000 and $60,000 of annual income, has shrunk in the 13 years ending in 1987 from 53 percent to 49 percent. More ominous was its prediction that the drop will become 38 percent by 1995 in 1977 dollars if present social and economic relationships continue on its present course.

A second part of the Labor Department's study contains a projection that households under $20,000 of annual income are expected to increase to 50 percent of the population by 1995 from just 39 percent in 1975.

None of these fundamentally negative results has so far caused popular panic. Dr. Herbert Stein of the American Enterprise Institute wrote in 1983 that Americans were simply satisfied with lowered expectations. The London Economist in 1990 commented that Americans were not rebellious because the stagnation of living standard growth takes many disguised forms, and because there appeared to be no obvious cure for change. The Federal Reserve Bank of Kansas City found in 1990 that achieving a 1 percent to 1.5 percent annual growth in the next two decades was merely a possibility, based on its capital stock theory.

As the most convincing and cogent universal measurement of national living standards world-wide is the Gross Domestic Product (GDP) numbers. The Council on Competitiveness compares American standard of living with citizens of the other "Summit 7" countries on that basis. Their analysis clearly marks a shrinking of that level since 1972, and wound up in 1989 with just an 8 percent margin over the average of all other Summit 7 countries as compared to a 22 percent margin in 1972. Germany's performance in 1989 exceeded that of the U.S. by 7 percent and was 14 percent above that of the Summit 7's average.

There appears now to be a developing concensus that it is the standard of living of its citizens in a modern commercial nation that constitutes the "ultimate goal of a productive economy," as shown recently by the Council on Competitiveness in Washington, D.C. It is the "profit" or "loss" citizens receive for their performance in manufacturing and services industries beyond mere sustenance. So far as benefits for Americans is concerned the growth of international trade in the past 20 years has been a "loss".

While a growing number of economists and politicians tend to agree this nation's standard of living is in decline or stagnating, the causes are not well understood. Dr. Stein's lowered expectation theory and President Carter's "malaise" concept, may well reflect a deep sense of frustration by middle and low income American families. The growing complexities of daily life in America and the overwhelming confusion caused by so many conflicting economic solutions, suggests that most Americans are not yet economically hurt enough to become politically aroused.

The twin federal and international trade debts are frequently linked as the underlying causes for the nation's post World War II period economic and social problems or symtomatic of them. But, each flow from quite different factors. Domestic deficits resulted from the cost of increased social programs inadequately funded, the Korea and especially the Viet Nam conflicts, and raging inflation in the 1970s. This economic trauma deserves separate analysis because any relationship with trade deficits is tenuous at best. Yet, the sheer magnitude of the debt and the plethora of conflicting fiscal solutions may well have caused frustration, despair and malaise to the heartiest of citizens.

International trade deficits, on the other hand, have arisen from five spearate serious miscalculations by America's leadership about the coldly brutal nature of international trade that existed for a thousand years or more.

First, American leadership concluded that, after two successfully waged world wars in a short 25 year period, it was time once again to re-establish a "new order" for international politics and trade. Out of this resolve appeared the United Nations and the General Agreement on Tariffs and Trade (GATT.) Both assumed, that aggressive nationalism around the world had ceased or could be overcome. But as William Safire wrote those who believe nationalism was a wave of the past would surely be flattened by it. Evidence grows that adverserial commercial relationships among individual nations and among the three major trading blocs, are more contentious than ever.

Second was preoccupation by most macroeconomists and academicians with discreetly selected passages of Adam Smith's "Wealth of Nations," that seemed to promote a so-called "free trade" theory of trade policy. Together with the more recently coined "free market forces" slogan, a new era of prosperity would surely appear. Macroeconomists were wrong again, and the U.S. standard of living declined.

Third was faith in the adoption of a tired slogan that a rising tide of international trade would bring forth trade surpluses. Instead it brought deficits to America.

Fourth included the adoption of a brand new floating international exchange rate theory in 1973 that would redress all excessive trade imbalances among nations. That idea has failed.

Fifth, was the U.S. leadership conviction that trading partners would adopt America's singularly unique 200 year tradition of legal equity and fairness and provide commensurate and reciprocal access to imports from America. No more fatuous and macho an expectation would be difficult to project, and the fact is that most trading partners have ignored it.

In terms of providing an ever increasing standard of living for Americans, adoption of these concepts and policies has been, by any measure, an unmitigated disaster. Pursuit of these policies has significantly contributed to bringing America to a devastating financial crisis which the leadership is increasingly unwilling to tackle. How serious an economic and psychological jam are Americans caught up in?

The U.S. became the world's largest debtor nation in all history, in 1985, with a record $3 trillion of public debt and with $600 billion of external debt at the end of 1989. That number is calculated to increase at an annual rate of some $260 billion. More than 50 percent of the total was contributed by a continuing international trade deficit.

The build-up to deficits is unparalleled in world history. In 1973, for example, imports and exports were in balance. After just 12 years, 1985, the annual trade deficit had soared to $150 billion. Nothing in recorded international commercial history has matched the speed and volume of U.S. manufactured goods imports during this period, their dollar value and the breadth of products involved in this monumental turnaround.

In the period between 1972 and 1987 total U.S. trade rose from $105 billion to $660 billion but the deficit grew from equilibrium to

$152 billion in 1987. By 1989 the U.S. was the world's largest exporter at $365 billion and the world's largest importer at $494 billion. What happened? Another $130 billion dollar deficit! Question. Why do some economists consider this performance a great achievement in view of the fact that Germany was a very close second with just 25 percent of U.S. population?

From the Commerce Department's macroeconomic analysis, it could be assumed that, because industrial production remains at 23 percent GNP, the nation is in great industrial shape!

However, those macroeconomic percentages for Commerce Department's "manufactured goods" category disguise the true nature of the impacted individual product sector. The stark fact is that foreign companies, with the help of their governments, took dead aim at all principal U.S. mass market and high value added manufacturing sectors beginning in the early 1960s. What they sought was significant penetration to provide a solid foundation for their own economies and they achieved extraordinary results. Those sectors include consumer goods, high tech, electronics, capital goods including electrical machinery and power generating equipment, autos and auto parts, steel, machine tools, metal mining and processing equipment, business machines, and scientific equipment. By 1980 the trade balance had already grown to a cumulative deficit of $105 billion.

In just four more years, 1981 through 1984, just four sectors of critical value-added industrial sectors increased the balance of trade deficit by $95 billion annually! Specifically, the U.S. trade surplus in capital goods dropped from $43 billion to $15 billion and the high technology sector dropped $20 billion, from $27 billion to just $7 billion. In the same period, the auto and auto parts sector's deficit increased by $23 billion and the consumer goods sector rose by $24 billion. This massive and unequalled product penetration of the core of a modern industrial economy caused a broad and agonizing re-adjustment of domestic industry accompanied by substantial unemployment and distress to thousands of communities across the country.

No American need doubt that recovering nations of the world took dead aim on the vast American market beginning in the late 1950s. Nor should anyone doubt that penetration by foreign companies in large measure was achieved by pursuing both centuries old brutal caveat emptor policies and highly developed guerilla tactics supported by a wide variety of subsidies by foreign governments. They were all part of a calculated nationalistic campaign designed to achieve the results already described.

Macroeconomists in the U.S. during the past 25 years typically explained foreign subsidies as acceptable policy provided they resulted in cheaper import product prices. Also acceptable doctrine was that irreparable harm to the cause of international trade would result if U.S. retaliated against subsidies that produced an unlevel playing field.

However, in an infrequently quoted section in Book IV, Chapter II of his "Wealth of Nations," to me, Smith showed considerable commercial insight when he wrote that there are "two cases in which it will generally be advantageous to lay some burden upon foreign, for the encouragement of domestic industry." One case provides the foundation for establishing a "level playing field" when a foreign country subsidizes domestic companies at the expense of the importing country's producers. Smith further observed that "There may be good policy in retaliations . . ., when there is a probability that they will procure the repeal of the high duties or prohibitions complained of."

So far as Adam Smith is personally concerned, he was not a businessman, but rather a brilliant academic, whose career emphasized positions as Professor of Logic and Moral Philosophy at Glasgow University. Only after he wrote "The Wealth of Nations" in 1776 did he have direct commercial experience as Commissioner of Customs for England for 10 years. Of more than passing interest, no nation of the world translated his general free trade ideas into any policy apparatus. Retrieval of his speculations at the start of the 1930 Great Depression 150 years later, therefore, may have resulted from an absence of credible explanations for the world-wide financial disaster. Any cause and effect relation between trade policy and the 1929 financial collapse is extremely tenuous, and none has been established.

It goes without saying that all Americans long for the sort of behaviour a kinder and gentler nation can bestow and are pleased with the ring of "free market forces" phrase. But, it's a tough unforgiving international commercial world supported by the extensive resources of individual nations that confronts U.S. policy makers. After 25 years of tough international competition, it is no longer sound policy to rely heavily on the "free market forces" slogan to achieve debt reduction. Again, Adam Smith offers advice about too much reliance on private enterprise with the words that a businessman "generally, indeed, neither intends to promote the public interest, nor know how much he is promoting it," and further on confesses that "I have never known much good done by those who affected to trade for the public good."

Despite the historically aggressive nationalistic policies of the world's trading nations, and the devastating impact U.S. trading partners have had on its economy, a 20-year debate has been raging in the U.S. over whether it should adopt a national "industrial policy," or "managed trade," to compete head to head.

The preponderance of evidence supports the proposition that America has been managing its trade for 200 years by adopting a wide variety of disparate policies, some legal and some administrative. Such policies include, for example, the toughest anti-trust laws in the world, trade statutes based exclusively on unique U.S. laws and customs unshared by other nations, indifference to providing incentives to domestic exporters to compete with foreign producers, and, desultory enforcement of statutes designed to pry open foreign markets.

None, however, was ever put in place as part of a consistent or coherent trade program designed to deal promptly with the impact on domestic producers caused by great influxes of imported products. U.S. international trade "policy" was directed solely at domestic considerations and were not competitive with trade policies of its trading partners.

The preponderance of evidence also establishes that, in terms of standard of living benefits to America, continued pursuit of current policies is no longer credible. Just as a corporate sales policy is expanded in expectation of a profit it can measure, so must a nation commit itself to a profit for its citizens that all can measure. There exists no forecast for a time certain that measures the "payout" to Americans. Perhaps no such forecast can be made until all pockets of cheap labor are eliminated around the entire globe, or, when it is no longer possible to discover or invent "natural or acquired advantages of one country over another" according to Adam Smith. Under that scenario, America may be doomed to decades of a lowering of expectations and a continuing decline in the general standard of living.

Of the two obvious courses open to American political leadership, one is a continuation of the current 20 year old policy which is based on the expectation that expansion of trade volume alone would reduce trade debt and improve the nation's standard of living.

A second option is adoption by the Congress and the President of a new strategic course which modifies consistent macroeconomic miscalculations. Its principal goal will be to develop a national trade negotiation strategy with government participation as a balance wheel reflecting a will to extract from increased trade the restoration of enough wealth producing value-added basic manufacturing capacity to enable the U.S. to reduce its trade debt in the planned near term time period.

In a world of swift economic change, why should we not boldly and publicly project trade oriented national economic targets for the nation, together with a full disclosure of the leadership's geopolitical objectives, by the end of the century? The bottom line of such a program must be much more than a mere forecast of still increasing international trade. It must be a detailed projection of measurably improved living standards for all Americans.

DONALD W. BEDELL.

GREENWICH, CT.•

BOAT PEOPLE: POLICY BASED ON PASSION

• Mr. SIMON. Mr. President, recently the Hong Kong Legislative Council passed a resolution urging the British Government to "formulate an effective and practicable strategy to curb the influx of Vietnamese boat people and expedite the repatriation of all nonrefugee Vietnamese boat people stranded in the territory."

I would underscore the final point; that they are asking the United States "to take appropriate action to facilitate the improvement of the Vietnamese economy which is the root cause of the boat people problem." It is hard to argue with the logic of that.

I'm grateful to the Honorable Mrs. Rita Fan, a member of the Legislative Council of Hong Kong, for sending me a copy of that resolution.

I applaud the leadership of some of our colleagues in this field, particularly Senator FRANK MURKOWSKI, Senator BOB KERREY, Senator JOHN MCCAIN, Senator ALAN CRANSTON, and Senator JOHN KERRY.

I hope we can come up with constructive answers that will help on the POW/MIA issue; that will provide a lift to the economy of Vietnam, as well as give the people of that country greater freedom; and provide a more rational foreign policy for the United States.

Foreign policy should be dictated by the national interest and not the national passion. In Vietnam, our policy

has been dictated by the national passion.

I ask that the Hong Kong Legislative Council's resolution be printed in the RECORD at this point.

The resolution follows:

THE VIETNAMESE BOAT PEOPLE PROBLEM IN HONG KONG: NEED FOR AN URGENT SOLUTION

INTRODUCTION

Hong Kong is facing another massive influx of Vietnamese boat people (VBPs). Over 9,700 have arrived this year, bringing the total VBP population in Hong Kong to over 52,000. At present, 97% of clandestine departures from Vietnam head for Hong Kong averaging hundreds a day. Hong Kong simply cannot carry this burden single-handedly any longer.

BACKGROUND

Since 1979, Hong Kong has practised a policy of first asylum and has never turned away a single Vietnamese boat.

Up to 1988, all Vietnamese landing in Hong Kong were given refugee status automatically. Resettlement countries considered the majority of arrivals not to be refugees and started their own screening in the early 1980s. Consequently, more and more Vietnamese were stranded in Hong Kong.

This forced Hong Kong to adopt a screening policy in June 1988 to ensure the resettlement of refugees. The move was intended to prompt resettlement countries to clear the backlog of refugees stranded in Hong Kong.

The screening process is monitored by the United Nations High Commissioner for Refugees (UNHCR). Those found to be refugees are housed in open refugee camps pending resettlement; those found to be non-refugees and are therefore illegal immigrants are accommodated in detention centres pending repatriation to Vietnam.

COMPREHENSIVE PLAN OF ACTION

In June 1989, 75 countries attended the International Conference in Geneva. They agreed on a Comprehensive Plan of Action which consisted of 4 elements:—

1. First asylum;
2. Screening;
3. Resettlement of Refugees;
4. Repatriation of Non-Refugees.

1, 2 and 3 were implemented but efforts to implement 4 in full failed. Hong Kong is now left with over 17,000 screened-outs (i.e. non-refugees) who will never be accepted by resettlement countries. Over 35,000 VBPs await screening.

Since March 1989, around 7,000 VBPs returned to Vietnam under the voluntary repatriation programme but over 49,000 arrived and over 4,900 were born. The voluntary programme is no solution.

EXPLOSIVE LOCAL SITUATION

Repatriation of illegal immigrants is an internationally accepted practice. All illegal immigrants from China, once caught, are repatriated automatically. In 1990, some 30,000 were returned. Over 80% of VBPs are not refugees. They are economic migrants leaving their country for better economic opportunities. Yet they are automatically admitted.

The disparity in treatment for illegal immigrants from China compared to the Vietnamese is deeply resented by the Hong Kong residents, many of whom have been waiting for years for their wives, children or parents to join them from China.

So far, Hong Kong has spent billions of dollars on VBPs, not to mention other facilities and services, such as hospitals, accommodation and manpower resources, which are much needed by the local community. At the same time, Hong Kong cannot see any genuine efforts by the international community in addressing the problem. Our people feel aggrieved by international criticisms of camp conditions when many of our own people have to put up with a very poor living environment. Our people do care about the world around them and have financially contributed towards overseas natural disasters and justified needs. Our growing frustration, caused by the lack of understanding and cooperation internationally in resolving the problem, is fast approaching explosive proportions.

URGENT SOLUTION NEEDED

The objection of the United States to the return of non-refugees back to Vietnam has left Hong Kong with no choice but to keep them in detention centres.

The international community, in particular the United States and Vietnam can help to solve this human tragedy by agreeing to the automatic return of non-refugees, thus putting an end to their futile waiting. Camp life is not pleasant for the VBPs and the effect on children is even worse. Overcrowding, violence and crimes in camps have created serious management problems and posed danger to the VBPs as well as the staff who looked after them.

The increasing number of daily arrivals coupled with the lack of ways of returning the stranded non-refugees have aroused strong calls from the frustrated Hong Kong public to scrap the first asylum policy. Unless an urgent solution is found, Hong Kong may be compelled to abandon the first asylum policy to preserve stability.

The VBP problem is a foreign affairs issue. Hong Kong looks to the British Government to:

Formulate an effective and practicable strategy to curb the influx of Vietnamese Boat People and expedite the repatriation of all non-refugee Vietnamese boat people stranded in the territory;

Contribute to the expenses incurred resulting from the Vietnamese boat people in Hong Kong and encourage other countries such as the United States to make similar contributions; and

Press the United States to take appropriate action to facilitate the improvement of the Vietnamese economy which is the root cause of the boat people problem.●

ARIZONA RECYCLING HOTLINE

● Mr. DECONCINI. Mr. President, as you know Arizona is a State that possesses unique beauty and precious natural resources. The citizens of this great State are deeply committed to maintaining these qualities for the generations of Arizonans yet to come.

This is why I take great pride in joining Mayor Paul Johnson, Arizona Clean and Beautiful, Phoenix Clean and Beautiful, Arizona Global Re-Leaf, and Forestry for Phoenix in supporting the Arizona Recycling Hotline. Arizona currently needs the essential services of an environmental clearinghouse to centralize information about the myriad of public and private environmental activities, programs, and educational projects.

I am convinced that the only viable way to provide state-of-the-art response to environmental challenges is through a public-private partnership. This is why I am supporting the Arizona Recycling Hotline. It will coordinate and dispense environmental information from different government agencies, private enterprise, nonprofit organizations, community calendars, and other resources. With a touch of the phone, any Arizonan will be able to immediately access information regarding recycling and other environmental services that is both accurate and timely. The Arizona Recycling Hotline will provide this service free of charge without taxpayer funding.

I am pleased to support this exciting new service and ask that my colleagues join me in commending this innovative endeavor. I urge Arizonans to utilize its services as another important step we can take to improve the state of the environment in which we live.●

THE "LESSONS" OF WAR

● Mr. SIMON. Mr. President, former U.S. Ambassador Ulric Haynes, Jr., who played a key role as our ambassador to Algeria in getting the hostages released from Iran, recently had an article in the Kent Quarterly titled, "The 'Lessons' of War."

It is a remarkably fine article loaded with common sense. He suggests these basic principles:

Get to know your adversary and what motivates him culturally, politically, historically, economically, and geographically;

Do not sell arms to oppressive, totalitarian regimes for reasons of short-term expediency and discourage others from selling;

Apply our Human Rights policy to friend and foe alike without compromising for any reason;

Resort to and exhaust the process of negotiations and U.N. collective action before threatening and escalating to armed conflict;

Use patience and self-restraint in negotiating and avoid, if at all possible, hampering our ability to adjust to an adversary's response by imposing deadlines and/or nonnegotiable demands;

Recognize that there is still a role for secret diplomacy to minimize or eliminate the tendency of negotiating parties to posture publicly for their constituencies;

Pay special attention to ensuring that the media understand and report the nature of the international crisis and the reasons for our country's position;

Adhere to international laws and conventions and urge others to do the same; similarly, respect the ruling of the International Court of Justice in The Hague and urge others to do the same.

If we measure U.S. involvement in past and present crises against the standard of the above lessons, I cannot help wondering whether there ever would have been a gulf crisis.

He calls for much more attention to foreign languages in our schools. My colleagues have heard me talk about that a great deal, and I shall continue to do so.

For example, he says:

On a recent trip to Australia and New Zealand, I was encouraged to see that Japanese

and Chinese language study is now routinely offered in their urban public schools. Can we match that? Not to do so is to educate a generation of students unable to function effectively in the environment of cultural diversity which increasingly characterizes our shrinking globe and our country.

It also calls for a little greater sensitivity and attention to the history of all areas of the world and to minorities within our country:

Our children should at least be made aware that many of the young men and women serving in our Armed Forces in the gulf enlisted in order to learn a trade, escape unemployment, or finance their higher education. They should know that, similarly, while black Americans constitute only about 12 percent of our population, they made up 24.6 percent of our troops in the gulf. Regardless of what motivated young Americans to join our Volunteer Armed Forces, no one doubts their loyalty and determination to win the war.

I ask that his full statement be printed in the RECORD at this point.

The statement follows:

THE "LESSONS" OF WAR

(Ulric Haynes, Jr.)

Wherever you stand with respect to the Gulf War, there is no escaping our common concern for what comes after. Recognizing that what does come after the Gulf War is sure to be a challenge which our children will face, I am prompted to share my thoughts about what I think we should be doing to prepare them. In sharing these thoughts, it is my hope to stimulate the reader's own thinking, not to reassure or to encourage complacency.

The headline of a short news item in the New York Post of January 21, date-lined Jerusalem, caught my eye. It read, "U.S. Envoy Isn't Playing Kosher." The gist of the item was local Israeli newspaper reports that a senior level American diplomat had gotten off to a rocky start with his Israeli hosts by making a big issue over the fact that he could not get bacon with the eggs he ordered from room service at the Jerusalem Hilton Hotel. The Israeli press said that, in spite of the explanation that major Israeli hotels do not serve pork because it is not kosher, the diplomat did not seem to understand the problem and kept insisting on having bacon.

It strikes me that, if this incident represents the level of cross-cultural sensitivity of our country's leadership, it is no wonder that we are at war with Iraq and that most Muslims around the world (including the populations of Arab countries that are members of our coalition) are anti-American with regard to our involvement in the Gulf crisis.

From the start of this crisis, I have wondered whether our decision-makers in Washington understand and have taken into consideration the mind-set of a Saddam Hussein, not to mention that of the Arabs supposedly friendly to us or even the Soviets and the Western Europeans who make up our coalition. Differing views on the peace initiatives and the solutions to the Arab-Israeli crisis lead me to question whether we and our allies are on the same wave-length.

The need to climb into the skin of your adversary in order to resolve an international crisis was very apparent to the American negotiators for the release of the hostages in Iran ten years ago. Our deputy Secretary of State and chief hostage negotiator at that time was Warren Christopher who recognized from the outset that Iranians do not act like Americans. As a participant in those negotiations in their final stage, I learned much from Warren Christopher that could have guided our policy formulation and response in the current Gulf crisis.

Let me share with you, in capsule form, some of what I learned:

Get to know your adversary and what motivates him culturally, politically, historically, economically, and geographically;

Do not sell arms to oppressive, totalitarian regimes for reasons of short-term expediency (and discourage others from selling);

Apply our Human Rights policy to friend and foe alike without compromising for any reason;

Resort to and exhaust the process of negotiations and UN collective action before threatening and escalating to armed conflict;

Use patience and self-restraint in negotiating and avoid, if at all possible, hampering our ability to adjust to an adversary's response by imposing deadlines and/or non-negotiable demands;

Recognize that there is still a role for "secret diplomacy" to minimize or eliminate the tendency of negotiating parties to posture publicly for their constituencies;

Pay special attention to ensuring that the media understand and report the nature of the international crisis and the reasons for our country's position;

Adhere to international laws and conventions and urge others to do the same; similarly, respect the ruling of the International Court of Justice in the Hague and urge others to do the same.

If we measure U.S. involvement in past and present crises against the standard of the above lessons, I cannot help wondering whether there ever would have been a Gulf crisis.

However, it is a bit late to be fretting over what we could have done to prevent the warfare in the Gulf region. Nevertheless, one thing is certain: now that the U.S. and its coalition have defeated Iraq and liberated Kuwait, we face the new challenge of "winning" the peace, rebuilding the destroyed infra-structure, and figuring out what to do with a defeated Iraq. Both individually and collectively, coping with these long-term challenges will be a task with which our children who are currently in college and secondary school will have to deal. And, while we can do nothing now to correct the mistakes that got us into a war, there is no excuse for our doing nothing to prepare the generation behind us to deal effectively with the consequences of that war, consequences that will be with us domestically and internationally for some time to come.

Whenever there is an international crisis, it amazes me that the rest of the world knows the U.S.A. so much better than we know them. One frequent indicator of this phenomenon is so common on our TV newscasts that many of us do not even notice it or realize its significance. I refer to our news teams' interviews with the man on the street in Rumania or the Iraqi Foreign Minister, or the Chinese ambassador, or the King of Jordan. All of these news-worthy public figures speak our language and can handle an interview in English with ease whether on "Face the Nation" or in response to a TV reporter's roving microphone. Of course, some of these people have been privileged to study in the U.S.A. Still others have come to know our language through our ubiquitous television programming, the classroom, and our literature.

On the other hand, precious few Americans—even well-educated Americans—can handle themselves in French, German, Italian, or Russian, not to mention Rumanian, Arabic, or Chinese. With Spanish already the de facto second language of our country, we even risk not being able to communicate with the most rapidly growing segment of our own population—Hispanics.

Studying and communicating in another person's language permits one to climb into his skin and understand what makes him tick. I can think of no American president or secretary of state in my lifetime who has been fluent in a foreign language except for Henry Kissinger whose mother tongue is German. Indeed, many of our ambassadors—especially those who are political appointees—are not fluent in the language of the major capitals to which they are posted. The situation is so bad that, during the final days of the Iran hostage negotiations, our State Department could not find a bi-lingual secretary in English/French to assign to our negotiating team, much less in English/Arabic or English/Farsi (the other languages in which negotiations were conducted).

It is apparent then that the study of modern foreign languages is a matter of highest priority if we are to prepare our sons and daughters to cope with the legacy of the Gulf War and the other international crises they will inherit from us. Is it really too much to require three years of one foreign language and two years of another as a condition of graduation? Shouldn't we start the study of foreign languages in elementary school? On a recent trip to Australia and New Zealand, I was encouraged to see that Japanese and Chinese language study is now routinely offered in their urban public schools. Can we match that? Not to do so is to educate a generation of students unable to function effectively in the environment of cultural diversity which increasingly characterizes our shrinking globe and our country.

The curriculum at our public and private secondary schools should be broadened to prepare our children to cope with diversity and also teach them the values and social concerns that ought to be the underpinnings of their own American way of life, especially tolerance of and respect for differences. Similarly, what is so sacrosanct about the present nine-month duration of the school year? Would it not represent a more optimum use of school plant and facility to extend the school year by at least another month to accommodate the increase in secondary school course work necessary to prepare our offspring to deal with such further challenges as the legacy of the Gulf War?

With the defeat of Iraq by the combined armed forces of the U.S. and her coalition allies, I predict a scenario that will involve a significant U.S. and coalition military presence (probably designated a UN Peace-keeping Mission) in Iraq and Kuwait for years to come. A coalition-backed government will be installed in Iraq with doubtful popular support. Simultaneously, an active popular underground movement supported by Palestinians and Islamic fundamentalists from within and outside Iraq will successfully destabilize Iraq and the entire Middle East. If this scenario is correct, our children will surely be called upon to play a role in the restoration of peace and maintenance of the post-war balance of power that we would like to see in the region.

Additional language study by itself is not sufficient preparation for our youngsters. They should be taught geography, non-Eurocentric world history, comparative religion and ethics, basic economics and political science, beginning anthropology, as well

as enough mathematics and science to understand how advances in technology can be used to provide a better life for us all. At least one course each year should be devoted to studying a current national or international problem the solution to which depends on the student's ability to draw on and apply all of their academic disciplines. Unfortunately, the problems of life do not come at us labelled "history," "algebra," "social studies," or "chemistry." They come at us as "problems," and it is up to us to break the problems down into elements with which our academic and other experiences equip us to deal. What better place to learn this synergistic approach to problem-solving than in the classroom.

In this connection, using the Gulf crisis as a possible current problem to be studied, students should be encouraged to use French, Spanish, German, and other newspapers and periodicals in the original languages as part of their research material on national attitudes toward the crisis. With the deliberate Iraqi crude oil spill and burning of Kuwaiti oil wells in mind, a portion of a course dealing with the Gulf War might be devoted to the impact on the Gulf and world environment of intensive warfare in the region, not to mention the threat to discovered and yet undiscovered antiquities in what was ancient Mesopotamia, Babylon, Nineveh, and Abraham's home in Ur.

Attention should be paid to the social, economic, and commercial consequences of warfare and the troubled peace that will follow. Most important, serious discussion of the ethical, religious, and legal considerations in the Gulf War should take place.

Our children should at least be made aware that many of the young men and women serving in our armed forces in the Gulf enlisted in order to learn a trade, escape unemployment, or finance their higher education. They should know that, similarly, while black Americans constitute only about 12% of our population, they made up 24.6% of our troops in the Gulf. Regardless of what motivated young Americans to join our volunteer armed forces, no one doubts their loyalty and determination to win the war.

What should concern us is what we have to offer these young heroes and heroines upon their victorious return. If they return to more unemployment, increasingly costly higher education, poor housing, expensive health care, and the same old "myths" of equality of opportunity, we can be sure that the environment in which our students will mature will be one of social disruption. Are we preparing our children to cope?

As students at a church-affiliated school, Kent students should know that clerics in our country (including those of our own Episcopal denomination) and abroad are currently engaged in the same lively discussion of whether our involvement in the Gulf is a "just war" that so concerned St. Augustine in the fifth century AD. Then too, what better way to wrestle with and understand the moral and ethical values we so often take for granted than to engage students in the classroom discussion of what John Cardinal O'Connor meant when he said in a recent sermon that ". . . peace is not simply the absence of war." They should be encouraged to discuss both sides of the recent overwhelming decision by the congregation of the Riverside Church in New York City for that church to serve as a sanctuary for conscientious objectors who did not wish to serve with our armed forces in the Gulf.

The classrooms should serve as laboratories where history is dissected and its relationship to current events understood. In this connection, a segment of the history curriculum should be devoted to the study of the Ottoman Empire of which Iraq and the rest of the Middle East was a part until nearly the second decade of this century, an empire that at one time stretched as far as the gates of Vienna. Such study would put European and American history, with which our students are familiar, in better perspective and would go a long way toward explaining what is happening in the Middle East and Iraq today.

Listening to CBS News on my car radio on Sunday, January 28, I heard that our own Immigration and Naturalization Services (INS) has prepared a detention camp in Oakdale, Louisiana, to accommodate up to 5,000 Arabs in America suspected of being terrorists. This, coupled with the FBI interrogations of hundreds of Arab-Americans, places us on the brink of yet another national disgrace similar to the internment of Japanese-Americans some fifty years ago. Detention centers, internment camps, concentration camps, and Indian reservations are all part of the same breed of enforced segregation that incites the hatred of those ethnic groups "detained" in such places for all those responsible for putting them there. If the history curriculum in our secondary schools fails to deal with such issues, then we can be sure that our children will condone or participate in the painful, often destructive process of history repeating itself.

However, it is also not desirable to create a cadre of broad-minded young "textbook" experts. Coincidental with the change in curriculum, our children should be exposed to the practical, hands-on difficulties involved in arriving at peaceful, effective solutions to the world's problems. I can think of no better way to do this than to encourage their participation in international student exchange programs and community service in nearby low-income, underprivileged communities. This would help them to appreciate both the domestic and international challenges they face and their interrelationship.

The goal of such changes in the way we educate our children would be to equip them to do a better job in preventing crises like that in the Gulf than past generations did in creating them. In short, may our children never go to the Jerusalem Hilton Hotel and ask for bacon!

(Ambassador Ulric Haynes, Jr., is the father of Greg Haynes '93. He is the former American Ambassador to Algeria (1977–81), served on the staff of the National Security Council in the Johnson administration, and has held senior level positions in higher education and the private sector. He is currently senior vice president of Drake Beam Morin, Inc.)•

CENSUS ADJUSTMENT

• Mr. SASSER. Mr. President, once again the Census Bureau and the Department of Commerce have chosen the political low road in providing a fair and accurate count of this Nation's population. In announcing his decision against adjusting the 1990 census for undercounts, the Secretary of Commerce has, in effect, said to cities, towns, and counties throughout this Nation that the Administration has once again chosen to turn a deaf ear to their needs. The Secretary's failure to adjust the 1990 census for undercounts is a cruel and blatant slap in the face to those persons most in need of Federal assistance, namely minorities, the poor, the elderly, and children. Given the widespread, documented errors in the 1990 census count, the actual undercount ranging from 5 to 10 million, the Secretary's failure to adjust those numbers is an arrogant affront to the very principle upon which this Nation was founded, namely, that, in America, everyone counts.

Once again the Census Bureau and the Department of Commerce have chosen to make the issue of a statistical adjustment of the 1990 census a political football. Citing a lack of unanimity within the statistical community on the issue of adjustment, and the potential disruption of the political process, the Census Bureau and the Department of Commerce continue to play politics with the lives of this Nation's neediest citizens. An adjustment of the 1990 census for undercounts would have been a welcome ray of hope to this Nation's neediest citizens. Instead, the failure to adjust the 1990 census will, in effect, push these over 5 million "invisible" citizens further into the darkest recesses of poverty, despair, and neglect. While refusing to adjust the 1990 census for undercounts may well serve a limited short-term agenda, the long term consequences of a failure to adjust will be far more costly and detrimental to the Nation as a whole.

Much of the debate on the issue of adjustment focused on the category of winners and losers among the individual States and the various localities. A rational decision to adjust based solely on the scientific evidence might have altered the decade-long animosity and divisiveness that has accompanied the census adjustment debate. Instead, legislative and legal actions will no doubt continue.

Mr. President, the decision against adjustment will not only affect the 1990 census, but also go a long way toward undermining the integrity of future census efforts. Assurances that more accurate numbers will be forthcoming in future census efforts will not erase the memory that the 1990 census is the first census to be less accurate than the one before. Promises of future census effort reforms will do little to bridge the widening differential undercount rate. Having spent enormous portions of their own limited resources to ensure the accuracy of the 1990 census count, States, and localities have little or no incentive to look ahead to the year 2000 census or any other census. In the category of winners and losers, the Nation as a whole becomes the biggest loser in the 1990 census process.

America loses because a flawed and inaccurate census will provide a dangerously false count of this Nation's poor citizens. An inaccurate census

will lend the false impression that the number of poor citizens throughout this Nation is on the decline. While efforts to break the cycle of poverty continue, ignoring the fact that the number of poor citizens is on the rise is not the answer. An undercount of this Nation's poor can only exacerbate the problems of poverty, hunger, and homelessness.

The fact remains, Mr. President, that the incidence of poverty is on the rise. In addition, to those persons traditionally identified as poor, there is a rising category of new poor among working families with children. Undercounting the 1990 census will, in the long term, further erode the structure and stability of the family unit.

In 1989, 31.5 million people, or 12.8 percent of the Nation's population was officially identified as poor. During the Great Society years of the 1960's, the incidence of poverty was cut nearly in half from 22.4 percent to 12.1 percent. This trend of abated poverty, however, was markedly reversed between 1979 and 1983 when the poverty rate rose dramatically to 15.2 percent.

A recent study indicated that in 1991, more families, 4.4 million, are on welfare than at any other time, many for the first time. In addition, experts estimate that there are another one million families eligible for Aid For Families With Dependent Children [AFDC] who currently are not receiving such payments. Currently, 23.1 million Americans receive food stamps. And, there are an additional 4 million needy persons eligible for food stamps that currently do not receive them. In short, one in six families receive some form of public assistance, such as welfare, Medicaid, and free lunch.

The flawed results of the 1990 census will only make worse the numbers of poor persons in America. We can ill afford to write off poverty in America as generational chains that simply need to be broken. Undercounting the 1990 census will not change the fact that the numbers of new poor are on the rise. It will not change the fact that many of these new poor are working families. An inaccurate census will not alter the fact that limited Federal, State, and local resources must, nonetheless, reach these "invisible" Americans, many of whom are the victims of the recession, rising unemployment, and cutbacks in government programs.

A flawed and inaccurate 1990 census will also push many Americans into the invisible sector of homelessness.

Homelessness continues to be both an escalating national problem and a disgrace. As part of the 1990 census process, the U.S. Census Bureau estimated the number of homeless persons in shelters and on streets to be 228,621. Other experts, however, estimate the number of homeless persons in America to be between one-quarter and 5 million persons.

Homelessness affects all segments of society, most alarmingly the family unit. More and more, those joining the "invisible" ranks of the homeless are families with children and the working poor. Failure to recognize and address the increased incidence of poverty and homelessness among families with dependent children will eventually take a hard toll upon the Nation as a whole.

Mr. President, the Secretary's failure to adjust the census for undercounts flies in the face of overwhelming documented evidence of errors and omissions in the 1990 census. For the moment, it appears that political expediency has once again tipped the administration's scales against adjusting the 1990 census for undercounts. Unfortunately, those least able to bear the weight of that decision, namely minorities, the poor, the elderly and children, will once again pay a disproportionate share of the cost.•

MS. ROSA JACKSON LUMPKIN'S 115TH BIRTHDAY

• Mr. D'AMATO. Mr. President, imagine meeting someone who witnessed the beginning of flight, the first record player, the dawn of telephones and televisions, the start and end of the Spanish-American and First World Wars, the first motion pictures, the last Indian war, the assassination of President McKinley, and income without taxes.

A life of 115 years is not something that's celebrated every day—it gives me great pleasure to wish Ms. Rosa Lumpkin a very happy 115th birthday.

Ms. Lumpkin was born the youngest daughter of former slaves in Flint, GA. When she was 3 years old, her parents recorded her July 17, 1876, birthdate. Unofficially she is 118 years old.

Rosa spent most of her adult life in Moultrie, GA with her husband Dona Lumpkin, their children, and many grandchildren. In 1962, after her husband's death, she moved to Buffalo, NY, where she devotedly volunteered at hospitals and shelters in her community. Still sharp and witty, Rosa continues to entertain and educate those around her.

It is rare that one person could possess such a wealth of history and experience. I hope you will all join me in saluting Rosa, a fine American, and in wishing her a very happy 115th birthday.•

REASONABLE THOUGHTS ON STAR WARS

• Mr. SIMON. Mr. President, as we move closer to consideration of the fiscal year 1992 Defense authorization bill, I commend to my colleagues an article on the strategic defense initiative [SDI] by John Pike and Christopher Bolkcom. Their article clearly presents the present strategic realities, and discusses the costs and problems of a space-based system. I urge my colleagues to take the time to read this article, and I ask that it be printed in the RECORD.

[From the San Francisco Examiner, May 6, 1991]

REINCARNATED STAR WARS IS STILL A TURKEY

(By John Pike and Christopher Bolkcom)

The Strategic Defense Initiative has become a system that won't work in search of a threat that doesn't exist.

In late 1990, the initiative was fundamentally reoriented. Instead of protecting missile silos from a Soviet first strike or cities against a nuclear attack, the defense initiative metamorphosed into the Global Protection Against Limited Strikes system—also known as GPALS. This reorientation was a response to both the political opportunities presented by the Persian Gulf war, and congressional budget reductions in light of the receding Soviet threat and seven years of fruitless labor on the original Strategic Defense Initiative.

The global protection system is intended to defend against tactical and theater missile threats as well as up to 200 strategic missile warheads launched at the United States, including missile attacks that result from accidental or unauthorized launchers, from the Soviet Union or some third country.

While the administration estimates that global protection system will cost $41 billion, the cost growth of projects of similar complexity, such as the space station, suggest that GPALS would probably cost more than $150 billion.

There are two fundamental problems with this new orientation for ballistic missile defense. The first is that it won't work. In order to increase the chances of interception of Scuds in the Persian Gulf, the Army launched four Patriots against each 1950s era conventionally armed missiles.

The global protection system, in contrast, must exhibit a 100 percent interception rate against 1990s nuclear-armed weapons that can kill millions if they slip through. The system would also have to defend against hundreds of warheads and perhaps thousands of decoys simultaneously.

Furthermore, GPALS will have to defend against countermeasures such as depressed trajectory attacks and warheads that separate from the missile body.

The second problem with GPALS is that it isn't needed. Apart from tactical missiles, which can be dealt with by Patriot, the other threats that are the supposed rationale for the global protection system are nonexistent or so unrealistic that they don't justify spending $40 billion to $150 billion. All could be addressed more efficiently, more directly and less expensively by other means.

If a terrorist state did decide to nuke New York City, shipping the device inside a bale of marijuana, which seems to penetrate U.S. bordars effortlessly, would be a more reliable and less expensive delivery system than a ballistic missile.

India and Brazil have both been developing ballistic missiles for over a decade. Neither has produced a reliable intercontinental ballistic missile. There is no reason to believe that other developing nations could do better. If some developing country embarked on a program that threatened the United States there would be more than ample time to deploy a system to counter the threat.

A handful of ground-based interceptors, such as the recently tested ERIS interceptor,

would be adequate. This could be deployed in a fraction of the time and at a fraction of the cost of a global protection system. Increased cooperation with allies to curb the proliferation of sensitive technologies would blunt the threat of third-country attacks much more effectively than the global system.

While a mechanical failure could result in the accidental launch of a nuclear missile at the United States, this is without historical precedent. Closer scrutiny of this non-problem and perhaps more redundancy in safeguards would be the appropriate response.

While GPALS advocates say that unauthorized launch is a threat to the United States, chairman of the Joint Chiefs of Staff Gen. Colin Powell testified that "they (the Soviets), have very good control over their systems, and they treat them with the same care that we do."

And although a Soviet civil war is cause for concern, the direct threat to the United States is minuscule.

There is no need for the global protection system save political expediency. Spending $150 billion on a system that isn't needed and won't work is a bad idea.

John Pike is director of the Space Policy Project of the Federation of American Scientists, Christopher Bolkcom is a project consultant.)●

HORN OF AFRICA RECOVERY AND FOOD SECURITY ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 134, S. 985, regarding the Horn of Africa.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 985) to assure the people of the Horn of Africa the right to food and other basic necessities of life and to promote peace and development in the region.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill? There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, 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.)

S. 985

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 "Horn of Africa Recovery and Food Security Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (comprised of the countries of Ethiopia, Somalia **[and]** Sudan, *and Djibouti*) is a region that is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as by gross human rights violations, political repression, environmental destruction, and the breakdown of essential services.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and international community. Relief officials now estimate that another 15-20,000,000 people are threatened by starvation as civil war and drought continue to ravage the region.

(3) Governments in Ethiopia, Sudan, and Somalia as well as some armed opposition groups, *have been and continue to be* **[are]** guilty of gross human rights violations, including bombing civilians, torture, arbitrary killings and detention, exploiting hunger to achieve political aims, and suppressing basic political rights—all of which further erode food security in the countries.

(4) Aid policies have failed in large part because of political and economic insecurity which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate aid should promote real food security which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent a chronic dependency upon food aid.

(6) The reversal of the Cold War affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the Horn of Africa.

(7) The United States must fashion a foreign policy toward the Horn of Africa which promotes conflict resolution and seeks to cooperate with other major donors and the United Nations to develop an emergency relief plan which meets the food security and other basic human needs that arise as long as civil strife and famine afflict the region; to promote immediately cease fires, secure relief corridors, and an end to these conflicts; to provide creative development aid which attacks the root causes of famine and war and assists these nations on the path to long-term food security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace; and to support a grassroots approach which aids the poor majority. The programs also need to target aid to assist the poor majority more effectively.

SEC. 3. STATEMENT OF POLICY CONCERNING UNITED STATES POLICY IN THE HORN OF AFRICA.

It shall be the policy of the United States to engage in active diplomacy to assist in bringing about stability in the region through promoting negotiated political settlements that encourage orderly transition, increased food security, development of democratic institutions, and recognition of human rights, as follows:

(1) In Ethiopia, the President should use active diplomacy to encourage a negotiated end of the conflict *and the formation of a broad-based democratic government* in an effort to preserve humanitarian channels.

(2) In Sudan, the President should—

(A) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(B) encourage active participation of the entire international community to meet the emergency relief needs of Sudan; and

(C) take steps to achieve a permanent peace.

(3) In Somalia, the President should use active diplomacy to urge all parties of the conflict to negotiate an orderly transition that promotes stability and will allow the operation of an emergency humanitarian relief program, to the maximum extent.

SEC. 4. THE HORN OF AFRICA PEACE INITIATIVE.

(a) POLICY IN SUPPORT OF POLITICAL PARTICIPATION.—It is the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute effectively to equitable economic development, and to local, national, and regional peace initiatives;

(2) to promote the goal that all citizens may enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary and representative governmental institutions regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions working in government-controlled or opposition-controlled territories that have the capacity or potential to advance development programs, or to carry out relief, which routinely includes rehabilitation activities.

(b) CONSULTATIONS.—The President shall undertake immediate consultations with the Soviet Union and other nations, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations in order to bring about negotiated settlements of the wars in the region.

(c) MECHANISMS.—To best achieve the policy under subsection (a), it is the sense of the Congress that the President should—

(1) direct the United States representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflict;

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease fires.

(2) play an active and ongoing role in other fora, including the Organization for African Unity (OAU), in pressing for negotiated settlements to such wars; and

(3) support and participate in regional and international peace consultations that include broad representation from the nations and factions concerned.

SEC. 5. THE HORN OF AFRICA RELIEF AND REHABILITATION AND FOOD SECURITY PROGRAM.

(a) STATEMENT OF POLICY CONCERNING UNITED STATES RELIEF AND REHABILITATION AID.—It shall be the policy of the United States in promoting equitable distribution of relief and rehabilitation aid in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction, to continue supplies to the civilian population located in the territory of the opposing faction;

(2) to provide relief and rehabilitation in order to promote self-reliance;

(3) to assure that relief shall be provided on the basis of need without regard to political affiliation, geographic location, or the ethnic or religious identity, of the recipient;

(4) to redouble its efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population; and

(5) to commit sufficient Food for Peace and Office of Foreign Disaster Assistance resources to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources.

(b) POLICY IN SUPPORT OF TARGETING ASSISTANCE TO AID THE POOR MAJORITY.—

(1) Wherever possible, United States development assistance in the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists). United States Government aid institutions should seek to (A) build upon the capabilities and experiences of United States, international and private and voluntary indigenous organizations active in local grassroots relief, rehabilitation and development efforts; (B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and (C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) Whenever possible, sustainable development and food security in the Horn of Africa can be enhanced through the active participation of indigenous private and voluntary organizations as well as international private and voluntary organizations and international organizations with demonstrated ability to work as partners with local nongovernmental organizations and a commitment to promote local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) Current legislative provisions that restrict or prohibit United States foreign assistance to the governments of Ethiopia, Somalia, and Sudan should be retained until concrete steps toward peace, political pluralism, and human rights are achieved. Meanwhile, programs of development assistance should be promoted by supporting United States, indigenous, and international private and voluntary organizations working in the afflicted countries.

(c) INTERNATIONAL DISASTER ASSISTANCE.—Chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292–2292p) is amended by adding at the end thereof the following new section:

"SEC. 415. HORN OF AFRICA EMERGENCY ASSISTANCE.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide emergency assistance for relief and rehabilitation in the Horn of Africa. Such assistance should include forms of relief and rehabilitation projects to benefit the affected, including disease prevention and health care projects; and when possible, small-scale agricultural projects, food protection and preservation projects; the rehabilitation of schools and the general education system; and, the inland transport and storage of emergency food assistance, including the provision of trucks and other such measures.

"(b) USE OF FUNDS.—

"(1) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—The utilization of United States, international, and indigenous private and voluntary organizations (PVOs) prudent to carry out the provisions of this section is urged.

"(2) EMERGENCY HEALTH PROJECTS.—The maximum inclusion of health projects, including efforts to rehabilitate the primary health care systems in the Horn of Africa prudent to carry out the provisions of this section is urged.

"(3) EDUCATION REHABILITATION PROJECTS.—The maximum inclusion of school and general education system rehabilitation projects, including efforts to support the teaching of displaced children, prudent to carry out the provisions of this section is urged, where security [permits] permits, and the President determines to be appropriate.

"(4) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount made available for the purposes of this section, not to exceed two percent shall be transferred to the "Operating Expenses of the Agency for International Development" account and used for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian assistance for the Horn of Africa.

"(5) AVAILABILITY OF FUNDS.—Amounts under this section are authorized to remain available until expended.

"(6) TRANSFER OF FUNDS.—The President is authorized to transfer such funds as are necessary from unobligated Economic Support Funds and military assistance to carry out provisions in this section.".

AMENDMENT NO. 761

Mr. FORD. On behalf of Senator PELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. PELL, proposes an amendment numbered 761.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 12 line 10 strike the "." and insert the following: "subject to amounts provided in advance in an Appropriations Act."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 761) was agreed to.

ADDITIONAL COSPONSOR

Mr. GORTON. Will the distinguished manager add this Senator as a cosponsor to the bill?

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished Senator from Washington be added as a cosponsor.

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

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments, as amended.

The committee amendments as amended, were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 985

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 "Horn of Africa Recovery and Food Security Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (comprised of the countries of Ethiopia, Somalia, Sudan, and Djibouti) is a region that is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as by gross human rights violations, political repression, environmental destruction, and the breakdown of essential services.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and international community. Relief officials now estimate that another 15–20,000,000 people are threatened by starvation as civil war and drought continue to ravage the region.

(3) Governments in Ethiopia, Sudan, and Somalia as well as some armed opposition groups, have been and continue to be guilty of gross human rights violations, including bombing civilians, torture, arbitrary killings and detention, exploiting hunger to achieve political aims, and suppressing basic political rights—all of which further erode food security in the countries.

(4) Aid policies have failed in large part because of political and economic insecurity which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate aid should promote real food security which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent a chronic dependency upon food aid.

(6) The reversal of the Cold War affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the Horn of Africa.

(7) The United States must fashion a foreign policy toward the Horn of Africa which promotes conflict resolution and seeks to cooperate with other major donors and the United Nations to develop an emergency relief plan which meets the food security and other basic human needs that arise as long as civil strife and famine afflict the region; to promote immediately cease fires, secure relief corridors, and an end to these conflicts; to provide creative development aid which attacks the root causes of famine and war and assists these nations on the path to long-term food security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace; and to support a grassroots approach which aids the poor majority. The programs also need to target aid to assist the poor majority more effectively.

SEC. 3. STATEMENT OF POLICY CONCERNING UNITED STATES POLICY IN THE HORN OF AFRICA.

It shall be the policy of the United States to engage in active diplomacy to assist in bringing about stability in the region through promoting negotiated political settlements that encourage orderly transition,

increased food security, development of democratic institutions, and recognition of human rights, as follows:

(1) In Ethiopia, the President should use active diplomacy to encourage a negotiated end of the conflict and the formation of a broad-based democratic government in an effort to preserve humanitarian channels.

(2) In Sudan, the President should—

(A) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(B) encourage active participation of the entire international community to meet the emergency relief needs of Sudan; and

(C) take steps to achieve a permanent peace.

(3) In Somalia, the President should use active diplomacy to urge all parties of the conflict to negotiate an orderly transition that promotes stability and will allow the operation of an emergency humanitarian relief program, to the maximum extent.

SEC. 4. THE HORN OF AFRICA PEACE INITIATIVE.

(a) POLICY IN SUPPORT OF POLITICAL PARTICIPATION.—It is the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute effectively to equitable economic development, and to local, national, and regional peace initiatives;

(2) to promote the goal that all citizens may enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary and representative governmental institutions regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions working in government-controlled or opposition-controlled territories that have the capacity or potential to advance development programs, or to carry out relief, which routinely includes rehabilitation activities.

(b) CONSULTATIONS.—The President shall undertake immediate consultations with the Soviet Union and other nations, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations in order to bring about negotiated settlements of the wars in the region.

(c) MECHANISMS.—To best achieve the policy under subsection (a), it is the sense of the Congress that the President should—

(1) direct the United States representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflict;

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease fires.

(2) play an active and ongoing role in other fora, including the Organization for African Unity (OAU), in pressing for negotiated settlements to such wars; and

(3) support and participate in regional and international peace consultations that include broad representation from the nations and factions concerned.

SEC. 5. THE HORN OF AFRICA RELIEF AND REHABILITATION AND FOOD SECURITY PROGRAM.

(a) STATEMENT OF POLICY CONCERNING UNITED STATES RELIEF AND REHABILITATION AID.—It shall be the policy of the United States in promoting equitable distribution of relief and rehabilitation aid in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction, to continue supplies to the civilian population located in the territory of the opposing faction;

(2) to provide relief and rehabilitation in order to promote self-reliance;

(3) to assure that relief shall be provided on the basis of need without regard to political affiliation, geographic location, or the ethnic or religious identity, of the recipient;

(4) to redouble its efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population; and

(5) to commit sufficient Food for Peace and Office of Foreign Disaster Assistance resources to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources.

(b) POLICY IN SUPPORT OF TARGETING ASSISTANCE TO AID THE POOR MAJORITY.—

(1) Wherever possible, United States development assistance in the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists). United States Government aid institutions should seek to (A) build upon the capabilities and experiences of United States, international and private and voluntary indigenous organizations active in local grassroots relief, rehabilitation and development efforts; (B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and (C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) Whenever possible, sustainable development and food security in the Horn of Africa can be enhanced through the active participation of indigenous private and voluntary organizations as well as international private and voluntary organizations and international organizations with demonstrated ability to work as partners with local nongovernmental organizations and a commitment to promote local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) Current legislative provisions that restrict or prohibit United States foreign assistance to the governments of Ethiopia, Somalia, and Sudan should be retained until concrete steps toward peace, political pluralism, and human rights are achieved. Meanwhile, programs of development assistance should be promoted by supporting United States, indigenous, and international private and voluntary organizations working in the afflicted countries.

(c) INTERNATIONAL DISASTER ASSISTANCE.—Chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292–2292p) is amended by adding at the end thereof the following new section:

"SEC. 415. HORN OF AFRICA EMERGENCY ASSISTANCE.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide emergency assistance for relief and rehabilitation in the Horn of Africa. Such assistance should include forms of relief and rehabilitation projects to benefit the affected, including disease prevention and health care projects; and when possible, small-scale agricultural projects, food protection and preservation projects; the rehabilitation of schools and the general education system; and, the inland transport and storage of emergency food assistance, including the provision of trucks and other such measures.

"(b) USE OF FUNDS.—

"(1) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—The utilization of United States, international, and indigenous private and voluntary organizations (PVOs) prudent to carry out the provisions of this section is urged.

"(2) EMERGENCY HEALTH PROJECTS.—The maximum inclusion of health projects, including efforts to rehabilitate the primary health care systems in the Horn of Africa prudent to carry out the provisions of this section is urged.

"(3) EDUCATION REHABILITATION PROJECTS.—The maximum inclusion of school and general education system rehabilitation projects, including efforts to support the teaching of displaced children, prudent to carry out the provisions of this section is urged, where security permits, and the President determines to be appropriate.

"(4) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount made available for the purposes of this section, not to exceed two percent shall be transferred to the "Operating Expenses of the Agency for International Development" account and used for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian assistance for the Horn of Africa.

"(5) AVAILABILITY OF FUNDS.—Amounts under this section are authorized to remain available until expended.

"(6) TRANSFER OF FUNDS.—The President is authorized to transfer such funds as are necessary from unobligated Economic Support Funds and military assistance to carry out provisions in this section subject to amounts provided in advance in an Appropriations Act.".

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

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

The motion to lay on the table was agreed to.

IMPROVEMENTS IN THE OPERATION OF THE COURT OF VETERANS APPEALS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 157, H.R. 153, regarding the Court of Veterans Appeals.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 153) to amend title 38, United States Code, to make miscellaneous administrative and technical improvements in the operation of the United States Court of Veterans Appeals, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 762

(Purpose: To provide for the Court to accept and utilize certain gifts and bequests)

Mr. FORD. Mr. President, on behalf of Senator CRANSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. CRANSTON, proposes an amendment numbered 762.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 6, between lines 11 and 12, insert the following new section:

SEC. 7. ACCEPTANCE OF VOLUNTARY SERVICES AND GIFTS BY THE UNITED STATES COURT OF VETERANS APPEALS.

Section 7281 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(i) The Court may accept and utilize services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.".

On page 6, line 12, strike out "7" and insert in lieu thereof "8".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 762) was agreed to.

Mr. CRANSTON. Mr. President, as Chairman of the Committee on Veterans' Affairs, I urge my colleagues to give their unanimous approval to H.R. 153 as ordered reported by the Veterans' Affairs Committee on June 6, 1991, as it would be amended by a committee modification that will be offered in a moment. The majority of provisions contained in this bill were formally requested by the Court of Veterans Appeals Chief Judge Frank Q. Nebeker so as to ensure that the court and its judges are provided with similar authority and held to similar standards as other Federal appellate courts.

Mr. President, this legislation originally passed the House on February 20, 1991. The Committee on Veterans' Affairs amended the bill during a committee meeting on June 6, 1991. The final version, with the amendment I will offer, reflects a compromise agreement that the Senate and House Committees on Veterans' Affairs have reached on certain bills, amendments, and provisions relating to the court that were considered by the two Veterans' Affairs Committees, but not enacted during the 101st Congress. As my colleagues will recall, the Senate was unable to consider and act upon these measures at the end of the last Congress due to objections raised over certian unrelated veterans legislation.

Mr. President, rather than go into detail now on the bill, I will briefly summarize the provisions of H.R. 153 and my amendment and then place in the RECORD a detailed explanatory statement developed by the two Veterans' Affairs Committees.

Mr. President, the provisions in this bill would:

First, delete a provision which requires the court to include in its decisions a statement of its legal conclusions and determinations as to its factual determinations.

Second, authorize the chief judge of the court to convene annually a judicial conference.

Third, make applicable to the court the provisions of title 28, United States Code, relating to procedures for filing complaints with respect to the conduct of judges and the disqualification of judges.

Fourth, allow judges of the court to participate in the thrift savings plan.

Fifth, authorize the distribution of the CONGRESSIONAL RECORD to the court.

Sixth, make certain other technical amendments to the law which established the court, Public Law 100-687, the Judicial Review Act.

Seventh, under the provision in the committee modification, which is derived from S. 1050, legislation I introduced on May 14 at the request of Chief Judge Nebeker, would allow the court to accept volunteer services—which would allow the court to establish an unpaid intern program for law students—and to accept gifts, such as books and works of art.

Mr. President, I ask unanimous consent that the explanatory statement on the provisions in H.R. 153 as amended that was developed by the two Veterans' Affairs Committee be printed at this point in the RECORD.

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

EXPLANATORY STATEMENT ON H.R. 153, RELATING TO THE UNITED STATES COURT OF VETERANS APPEALS

H.R. 153 as passed by the House on February 20, 1991, and as amended by the Senate Committee on Veterans' Affairs during a Committee meeting on June 6, 1991, and further amended during Senate consideration, reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain measures containing provisions relating to the United States Court of Veterans Appeals that were considered, or proposed to be offered, in the Senate and the House of Representatives during the 101st Congress but were not enacted. Those measures are H.R. 4557, which the House passed on May 1, 1990; H.R. 5657, which the House passed on May 1, 1990; S. 2100, which the Senate Committee on Veterans' Affairs reported on July 19, 1990, but which did not receive Senate consideration prior to the end of the 101st Congress; and amendments that the Chairman of the Senate Committee was prepared (on behalf of the Senate Committee) to offer to H.R. 5657 in October 1990, but which were not offered because the Senate was unable to consider that bill prior to the end of the 101st Congress.

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanatory statement on H.R. 153. Differences between the provisions contained in H.R. 153 as amended by the Senate (hereinafter referred to as the "Compromise agreement") and the related provisions in the House-passed versions of H.R. 4557, H.R. 5657, S. 2100 as reported by the Senate, and the proposed amendments to S. 2100 are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical and clarifying changes.

PROCEDURES FOR DECISIONS OF THE COURT OF VETERANS APPEALS

Current law: Under section 7267(b) of title 38, the Court of Veterans Appeals is required to include in each of its decisions a statement of its conclusions of law and determinations as to factual matters.

Section 7267(d)(1) of title 38 provides that, in the case of a decision by a single judge of the Court, the decision of the judge becomes the decision of the Court unless, before the expiration of the 30-day period beginning on the date of the decision of the judge, the Court directs that the decision of the single judge is not part of the record. Section 7267(d)(2) provides that, in the case of a proceeding determined by a panel of the Court, the decision of the panel becomes the decision of the Court unless, before the expiration of the 30-day period beginning on the date of the panel's decision, the Court directs that the decision be reviewed by an extended panel of the Court (or the Court en banc), in which case the decision of the panel initially deciding the case is not part of the record.

House bill: Section 2 of H.R. 5657 would have repealed subsections (b) and (d) of section 7267.

Senate bill: No provision.

Compromise agreement: Section 1 follows the House bill.

JUDICIAL CONFERENCE

Current law: There is no authority under current law for the Chief Judge of the Court of Veterans Appeals to convene a judicial conference. Under section 331 of title 28, the Chief Justice of the United States is required to summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a judicial conference.

House bill: Section 3 would amend title 38 so as to authorize the Chief Judge of the Court of Veterans Appeals to summon the judges of the Court to an annual judicial conference for the purpose of considering the business of the Court and recommending means of improving the Court's jurisdiction. The Court would be required to provide by its rules for representation at the conference by persons admitted to practice before the Court and by other persons active in the legal profession.

Senate bill: No provision.

Compromise agreement: Section 2 follows the House bill.

JUDICIAL DISCIPLINE

Current law: Section 372(c) of title 28 sets forth the procedures to be followed when a complaint alleging conduct "prejudicial to the effective and expeditious administration of the business of the courts" or inability to discharge the duties of office due to mental or physical disability is filed against a federal circuit, district, or bankruptcy judge, or a magistrate.

Upon completion of an investigation of a complaint, a written report is filed with the judicial council of the circuit concerned. Upon receipt of such a report, the judicial council is authorized to conduct additional investigation and to take action to assure the effective and expeditious administration of the business of the courts within the circuit. A judicial council may also refer a matter to the Judicial Conference of the United States for consideration and appropriate action. Section 372(c) also provides the opportunity for a complainant or a judge or magistrate aggrieved by a decision of the chief judge or of a judicial council to petition the judicial council or the Judicial Conference, respectively, for review.

Section 372(c)(17) requires that the United States Claims Court, the Court of International Trade, and the Court of Appeals for the Federal Circuit prescribe rules consistent with the provisions of section 372(c) establishing procedures for the filing of complaints with respect to the conduct of judges of those courts and for the investigation and resolution of such complaints.

House bill: No provision.

Senate bill: No provision.

Compromise agreement: Section 3 would amend section 7253 of title 38 to require the Court of Veterans Appeals to prescribe rules, consistent with the provisions of section 372(c) of title 28, establishing procedures for the filing of complaints with respect to the conduct of any judge of the Court and would grant the Court the same powers with respect to the disciplining of judges of the Court as are granted to a judicial council under section 372(c) with respect to judges of a court covered by that section.

The Committees expect that the judges of the Court would constitute the judicial council for the Court.

RECUSAL OF JUDGES

Current law: Section 455 of title 28, which applies to judges of the U.S. Courts of Appeals, U.S. district courts, the Court of International Trade and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior, sets forth the circumstances under which judges must disqualify themselves from participating in particular cases.

House bill: No provision.

Senate bill: Section 705 of S. 2100 would have made applicable to the Court of Veterans Appeals the provisions of section 455 of title 28.

Compromise agreement: Section 4 follows the Senate bill.

PARTICIPATION OF JUDGES IN THE THRIFT SAVINGS PLAN

Current law: No provision in current law authorizes judges of the Court of Veterans Appeals to participate in the Thrift Savings Fund.

House bill: No provision.

Senate provision: Section 6 of the proposed amendment to H.R. 5657 would have amended chapter 84 of title 5 so as to authorize judges of the Court of Veterans Appeals to elect to contribute to the Thrift Savings Fund. Judges would be authorized to contribute to the Fund not more than five percent of their basic pay, and would be required to make an election to contribute to the Fund within 60 days after the date of enactment of this provision.

Compromise agreement: Section 5 follows the Senate amendment.

DISTRIBUTION OF THE CONGRESSIONAL RECORD TO THE COURT OF VETERANS APPEALS

Current law: Section 906 of title 44 provides for the distribution of gratuitous copies of the CONGRESSIONAL RECORD to certain offices and individuals, including, among others, virtually all Federal judges and court libraries other than those of the Court of Veterans Appeals.

House bill: No provision.

Senate provision: Section 7 of the proposed Senate amendment to H.R. 5657 would have amended section 906 of title 44 to require the distribution of copies of the CONGRESSIONAL RECORD to the judges of the Court of Veterans Appeals and to the library of the Court.

Compromise agreement: Section 6 follows the Senate amendment.

ACCEPTANCE OF VOLUNTARY SERVICES AND GIFTS

Current law: Public Law 100-687, the Veterans' Judicial Review Act, does not provide the Court of Veterans Appeals with statutory authority for the acceptance of voluntary services or gifts. However, section 604(a)(17) of title 28, grants to Article III courts authority to accept such services and gifts of personal property.

House bill: No provision.

Senate provision: Section 1 of S. 1050, as introduced on May 14, 1991, at the request of the Chief Judge of the Court of Veterans Appeals, would amend section 7281 of title 38 to allow the Court to accept voluntary services and gifts and bequests.

Compromise agreement: Section 7 contains the Senate provision.

Mr. SPECTER. Mr. President, I am pleased to support passage of H.R. 153, as amended by the Committee on Veterans' Affairs, which would make miscellaneous administrative and technical improvements in the operation of the U.S. Court of Veterans Appeals.

The Court of Veterans Appeals is a Federal court created by Congress in 1988 with exclusive jurisdiction to review appeals of claims for veterans' benefits which have been denied by the Board of Veterans Appeals, an administrative tribunal within the Department of Veterans Affairs. The legislation which created this court—Public Law 100-687—was a compromise in which the Congress took justifiable pride. As one who consistently championed external review of VA's benefits decisions, I think it altogether fitting that both bodies were able to come together to assure that veterans get a fair review of BVA decisions without burdening the Federal district courts. I look forward to studying the developing jurisprudence of the new court.

H.R. 153, Mr. President, would accomplish the following:

First, eliminate the current 30-day delay in the effective date of COVA decisions;

Second, authorize the chief judge of the court to annually summon the judges of such court to a judicial conference in order to consider business of the court and to improve the administration of justice within the court's jurisdiction;

Third, direct the court to prescribe rules which establish procedures for the filing, investigation, and ruling of complaints with respect to the conduct of any COVA judge;

Fourth, apply current Federal rules concerning the disqualification of justices, judges, or magistrates to COVA;

Fifth, permit COVA judges to contribute to the thrift savings fund, limited to 5 percent of the amount of the judge's basic pay;

Sixth, require the CONGRESSIONAL RECORD to be distributed to the COVA; and

Seventh, make discretionary—currently mandatory—the return by the court of books, records, and diagrams submitted to the court as part of an administrative determination.

As passed by the House, Mr. President, H.R. 153 contained a provision which would have raised the salaries of the associate judges of COVA, currently set at the level of a U.S. district court judge, currently $125,100 per year, to that of a court of appeals judge, currently $132,700 per year. However, by a bipartisan vote of 8 to 3, the Committee on Veterans' Affairs, at its markup on June 6, voted to delete this provision. We noted that, since the court was established in 1988, the salaries of associate judges had risen from $89,500 to $125,100. We noted also the limited jurisdiction of COVA when compared to a U.S. district court or to a U.S. court of appeals. I strongly supported this amendment in markup, and will strongly support it in any conference with the House.

These provisions are necessary for COVA to maintain its status as the court of last resort for veterans' claims. Together with the amendment to which I have already spoken, I believe this is a worthwhile piece of legislation and urge my colleagues to support it.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 153), as amended, was passed.

AUTHORIZING THE PURCHASE OF CALENDARS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 154, a resolution author-

izing purchase of calendars, submitted today by Senators FORD and STEVENS.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 154) relating to the purchase of calendars.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 154) was agreed to.

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

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Washington [Mr. GORTON] be recognized for up to 15 minutes and that at the conclusion of Senator GORTON's remarks the Senate stand in recess as under the order until 9:30 a.m., Wednesday, July 17.

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

ECONOMIC REFORM OF THE SOVIET UNION

Mr. GORTON. Mr. President, tomorrow President Gorbachev will join the leaders of the G-7 nations, to plead for immediate Western assistance—in the range of $10 to $12 billion—to help implement the latest of his programs for the economic reform of the Soviet Union. He hopes that these billions will stabilize the Soviet economy and assist in making the ruble a convertible currency.

President Gorbachev's plea should be denied—very politely, but, still, firmly.

A term lead by Harvard professor Graham Allison and Gorbachev's confidant Yuri Yavlinsky has drafted a plan for the wide-ranging economic restructuring of the Soviet Union conditioned upon substantial financial aid from the G-7 nations. President Gorbachev is unwilling to accept a scheme of such breadth—or even aid—conditioned upon its implementation.

Still, in this country and in Europe, a number of cautious conservatives have been tempted by the Allison-Yavlinsky plan, if it will include, in addition, dismantling a substantial portion of the Soviet military.

Finally, political columnist Charles Krauthammer proposes such assistance, but only to elected governments in the Soviet Union or its Republics, based on the belief that a freely elected political establishment will both reduce the military and adopt the free market as a matter of course.

The fallacy of each of these proposals lies in the belief that the reform of the Soviet Government and economy can be imposed, or even substantially influenced, from the outside. I am convinced, to the contrary, that the desire for reform and restructuring must come from within, just as did the original impetus toward glasnost and perestroika. It must arise from the widespread conviction in the Soviet Union that the entire Communist system is a bankrupt fraud, and that, for the people of the Soviet Union to lead decent lives, its political and economic institutions must be rebuilt from the ground up, and that this must be done even in the face of yawning indifference from the rest of the world.

Only then, will success be possible. And, equally important from our perspective, only then will the West be free from the inevitable hostility, unrest, and blame that will arise as the Soviet economy continues to decline in the opening stages of reform. If a significant part of the people or the political apparatus in the Soviet Union can attribute these inevitably dark days to conditions imposed from the outside world, a successful revolution will be impossible.

Before a total restructuring takes root, financial aid from the West will only help the Soviet establishment to mask its real condition, to continue to avoid the inevitable debate between guns and butter, military priorities, and civilian production.

I must confess a deep pessimism with respect to the proposition that Mikhail Gorbachev can, indeed, lead the final and most important steps in a true revolution. In every liberated country in Eastern Europe, the drive for democracy and a free economy has come from outside the Communist Party and has been successful only when the apparatchiks have lost positions of power in the state. Granted that the Communist system of governance in those nations was imposed from outside, and lasted for 30 years fewer than it has in the Soviet Union, it is still more likely than not that the final stages of the Soviet revolution will be led by someone more distant from the levers of power in preglasnost days than Mikhail Gorbachev. Gorbachev may be the Soviet Union's Moses, given the privilege of seeing the Promised Land, but it is unlikely that he will lead his people across the Jordan.

For now, if aid can be provided to the reforming countries on the other side of what formerly was the Iron Curtain, it should be directed to those emerging nations of central Europe—Poland, Czechoslovakia, and Hungary—that have already made the difficult choices and that have already swept their former Communist governments into the dust bin of history. Perhaps such aid will be appropriate for the Soviet Union, or for some of its constituent parts, at a later time—when its revolution has advanced as far, and when it has reduced drastically its military establishment, freed those Republics under its oppression, and has created a real political democracy. Then, perhaps, but not now.

THE BOEING CO.

Mr. GORTON. Mr. President, yesterday marked the 75th anniversary of the Boeing Co. On July 15, 1916, the Boeing Co. was founded in the State of Washington; 37 years later, in 1953, the people of Washington witnessed the flight of Boeing's first 707 prototype, the Dash 80. Today, Boeing leads the aviation industry with its work on the V-22 Osprey, the F-22 fighter, the 777, and the light helicopter. Boeing's ability to stay ahead of the high-technology curve plus its commitment to quality, initiative, and hard work, makes Boeing one of the most respected aviation industries worldwide.

America can thank the Boeing Co. for providing us with a strong national defense, a superb air transportation system, and a leading space exploration program. America's Armed Forces in the Persian Gulf relied on technologies produced by Boeing. The E-3 AWAC Sentry identified enemy aircraft and jammed enemy radar. The KC-135 refueled the entire air fleet, allowing it to perform historically successful mission. After the war, the C-135 flew food and clothing to the Kurdish refugees, and just recently it rescued thousands of families from the eruption of Mt. Pinatubo.

The Boeing Co.'s development of the 747 has made Boeing a household name. Its initiative in civilian transportation makes for a smaller world, while its work on the shuttle carrier and space station, opens our world to the surrounding universe.

The employees of Boeing have made this company what it is today. Along with its contributions throughout the world, the Boeing Co. enjoys a long history of local community support and corporate citizenship. Those citizens have consistently contributed to the livelihood of the communities in which they live. I applaud their support of cultural and educational programs throughout my State, and thank them for lending to the quality of life shared by thousands of Washington State citizens.

For 75 years, the Boeing Co. has added to the economic vitality of the State of Washington and the United States. I congratulate the Boeing Co. for its leadership in the aviation industry, and thank the employees of Boeing for their continued dedication to quality and excellence.

Mr. President, I yield the floor.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9:30 a.m., Wednesday, July 17; 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; and that there then be a period for morning business not to extend beyond 10:15 a.m. with Senators permitted to speak therein, and that Senator JOHNSTON be recognized for up to 20 minutes, that Senator DODD be recognized for up to 10 minutes; and that at 10:15 a.m., the Senate resume consideration of S. 323.

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

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until Wednesday, July 17, at 9:30 a.m.

Thereupon, the Senate, at 8:36 p.m., recessed until Wednesday, July 17, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1991:

DEPARTMENT OF VETERANS AFFAIRS

SYLVIA CHAVEZ LONG, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS), VICE EDWARD G. LEWIS, RESIGNED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

NORMAN KELINSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1995, VICE FRANK GANNON, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. FREDERICK M. FRANKS, JR. [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. MICHAEL F. SPIGELMIRE [redacted] U.S. ARMY.

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 601(A):

To be lieutenant general

MAJ. GEN. WAYNE A. DOWNING [redacted] U.S. ARMY.

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 601(A):

To be lieutenant general

MAJ. GEN. PETER A. KIND [redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING NAMED ASTRONAUT OF THE AIR FORCE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

LT. COL. LLOYD B. HAMMOND, JR. [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. LEO L. ACCURSI, [redacted] 4/6/91
MAJ. RICHARD W. ASH, [redacted] 4/14/91
MAJ. GARRY G. BUKSA, [redacted] 4/14/91
MAJ. BRINTON R. BURBIDGE, [redacted] 3/9/91
MAJ. JERRY DAILEY, [redacted] 4/1/91
MAJ. HERBERT M. HARRINGTON, JR. [redacted] 4/24/91
MAJ. ALTON A. JONES, [redacted] 4/19/91
MAJ. CARL J. KOCH, [redacted] 4/6/91
MAJ. DARRYL L. MARSHALL, [redacted] 4/10/91
MAJ. PATRICK M. ORORKE, [redacted] 3/29/91
MAJ. ROY H. PANSEY, [redacted] 4/23/91
MAJ. DON E. REYNOLDS, [redacted] 4/17/91
MAJ. ROBERT K. ROBBINS, [redacted] 4/7/91
MAJ. THOMAS D. SANNE, [redacted] 4/7/91
MAJ. JERED H. VANENGEN, [redacted] 4/5/91

MEDICAL CORPS

To be lieutenant colonel

MAJ. WILLIAN A. BAKER, [redacted] 4/6/91
MAJ. RAYMOND BRUNO, [redacted] 3/2/91

DENTAL CORPS

To be lieutenant colonel

MAJ. ROBERT M. CRAIG, JR. [redacted] 4/26/91

THE FOLLOWING CADETS, U.S. MILITARY ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 541 AND 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

ERIC F. HOLT [redacted]
MARK E. ROSE [redacted]

THE FOLLOWING MIDSHIPMEN, U.S. NAVAL ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 541 AND 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECERTARY OF THE AIR FORCE.

JAMES R. FISHER [redacted]
ANDREW J. GEBARA [redacted]
PARTICK C. MEAGHER, JR [redacted]
DANIEL J. ORCUTT [redacted]
GARY L. SCHAAP [redacted]
JEFFREY R. STUTZ [redacted]

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

CHRISTOPHER P. AZZANO [redacted]
JAMES E. BIGGS [redacted]
SHAWN E. BRAKE [redacted]
FRANCES M. CARDACI [redacted]
LEE A. CHAVEZ [redacted]
MICHAEL A. CLARK [redacted]
LAURA A. DISTELDORF [redacted]
JOHN P. GRAULTY [redacted]
JEFFREY L. HARLAN [redacted]
MATTHEW A. HOTCHKISS [redacted]
VICTOR H. MORA [redacted]
STEPHEN R. OLDS [redacted]
WILLIAM C. PATTERSON [redacted]
MICHAEL G. PEPPER [redacted]
KENNY J. PETERSON [redacted]
JEFFREY G. RAETZ [redacted]
DEBRA K. ROSE [redacted]
MARK C. SEE [redacted]
CHARLES C. TAYLOR [redacted]
DAVID A. WIESNER [redacted]

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

LOUIS A. CABRERA [redacted]
DANIEL L. CREW [redacted]
PETER HOLMBERG [redacted]
ROBERT F. MALLOW [redacted]
CARL R. LUNDEN [redacted]

ARMY DENTAL CORPS

To be colonel

RAY R. SCOTT, JR. [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

JOSEPH G. BLUME, JR. [redacted]
ROGER B. BURROWS [redacted]
RAYMOND O. CONNOR [redacted]
THOMAS J. DUGDALE, JR. [redacted]
DANIEL E. DURR [redacted]
DANIEL D. ECKERT [redacted]
THOMAS J. EMERY [redacted]
DAVID S. GAUNTLETT [redacted]
GEORGE H. GUNTER [redacted]
HAL F. HARRINGTON [redacted]
ARTHUR A. JACKSON [redacted]
RAYMOND R. JUNG [redacted]
RONALD B. KALKOFEN [redacted]
HENRY W. KNOCH [redacted]
DALE L. LIEBENTHAL [redacted]
MICHAEL A. MARTIN [redacted]
DENNIS K. MINER [redacted]
ROBERT J. MOORE [redacted]
JOHN V. PATTERSON [redacted]
CHARLES C. PRICE [redacted]
WILLIAM R. RADFORD [redacted]
VINCENT P. REEFER [redacted]
RICHARD T. SCHNELL [redacted]
JAMES P. SEWELL [redacted]
JAMES R. SHOEMAKER [redacted]
FREDERICK C. SPRENG [redacted]
WAYNE A. TANNER [redacted]
SAMUEL R. VARNELL [redacted]
ALAN J. WALKER [redacted]

MEDICAL CORPS

To be Lieutenant Colonel

MICHAEL S. MCINTOSH [redacted]
LEO F. ROGERS [redacted]

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH A SINGLE ASTERISK IS NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be Lieutenant Colonel

ROBERT M. READE [redacted]

CHAPLAIN

To be Lieutenant Colonel

CHARLES H. MORRISON, II [redacted]

ARMY NURSE CORPS

To be Lieutenant Colonel

*MARY E. GALVIN [redacted]

IN THE NAVY

THE FOLLOWING AIR FORCE CADETS TO BE PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 541:

JAY R. FROHNE
TODD A. KINROSS
KEVIN J. RAYMOND

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVES OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 593, 8366 AND 8372, TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE OF 7 MARCH 1991, AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF SEVEN YEARS OF PROMOTION SERVICE AND TWENTY-ONE YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) OF TITLE 10.

CHAPLAIN CORPS

To be lieutenant colonel

ROGER L. BACON [redacted]
BRUCE R. BETKER [redacted]
MARK H. HALL [redacted]
WALTER M. HARRIS [redacted]
LELAN D. MCREYNOLDS [redacted]
ROBERT D. PARLOTZ [redacted]
VINCENT J. RIGDON [redacted]
WILLIAM G. RUPRACHT [redacted]
RICHARD D. TERO [redacted]
MANTON L. TRACY, JR [redacted]
CHARLES B. URNICK [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

ROBERT L. ALLEY [redacted]
THOMAS W. ATZBERGER [redacted]
JOHN P. BACOT, JR [redacted]
BYRON E. BARNETT [redacted]
JOHN BARTUS [redacted]
JAMES B. BECHER [redacted]
CARL R. BEHRENS [redacted]
ROBERT K. BOST [redacted]

DANIEL F. BOUCHARD xxx-xx-x...
GLEN L. BOWER xxx-xx-x...
WILLIAM O. BRESNICK xxx-xx-x...
BRADFORD L. BUCHANAN xxx-xx-x...
PHILIP D. BURROUGHS xxx-xx-x...
JAMES R. CLIFTON xxx-xx-x...
PATRICK F. CORBIN xxx-xx-x...
GREGORY T. CORTESE xxx-xx-x...
WINFREE M. COURTNEY xxx-xx-x...
BARRY M. DENNIS xxx-xx-x...
FREEMAN B. DUNCAN xxx-xx-x...
JOSEPH EPISCOPO xxx-xx-x...
MILTON L. ETTER xxx-xx-x...
ROBERT D. FOGEL xxx-xx-x...
CLIFTON M. HASEGAWA xxx-xx-x...
BRUCE E. HAWLEY xxx-xx-x...
RICHARD D. HIPPLE xxx-xx-x...
MICHAEL A. JORDAN xxx-xx-x...
JOHN N. KULAS xxx-xx-x...
JAMES W. LESSIS xxx-xx-x...
DAVID M. LETA xxx-xx-x...
ROBERT L. MCGRATH xxx-xx-x...
RICHARD J. MIGLIACCIO xxx-xx-x...
GUNNAR C. MYRBECK xxx-xx-x...
JOHN S. ODOM, JR xxx-xx-x...
FRANCIS W. PEDROTTY xxx-xx-x...
HOWARD R. PEPPEL xxx-xx-x...
PETE L. RAMIREZ xxx-xx-x...
LUIS E. RIVERA xxx-xx-x...
JAMES R. SMITH, JR xxx-xx-xx...
STEPHEN R. SMITH xxx-xx-x...
THEODORE J. SOLOMON, JR xxx-xx-x...
JOHN T. SOMA xxx-xx-x...
JEFFREY L. SPRINR xxx-xx-xx...
JOSEPH SWERDZEWSKI xxx-xx-x...
RICHARD L. THORGREN xxx-xx-x...
PHILIP J. TYLER xxx-xx-xx...
JOHN S. VENTO xxx-xx-x...
DANIEL J. WACKER xxx-xx-x...
LARRY F. WHITHAM xxx-xx-x...
ROBERT E. WILLIAMS, JR xxx-xx-x...
JOHN L. WITTENBORN xxx-xx-x...
BRIAN L. WOOLDRIDGE xxx-xx-x...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be lieutenant colonel

RODERICK M. ADAMS xxx-xx-x...
RICHARD H. AGOSTA xxx-xx-x...
DAVID A. AIKEN xxx-xx-x...
ROBERT E. ALEXANDER xxx-xx-x...
WILLIAM P. ALLEN xxx-xx-x...
EDWIN K. ARMITAGE xxx-xx-x...
GREGORY D. AYRES xxx-xx-x...
GLENN D. BAKER xxx-xx-x...
SAMUEL D. BOTTARO xxx-xx-x...
DONALD W. BOUCHER xxx-xx-x...
LEE W. BRIGGS xxx-xx-x...
JOHN H. BROWN xxx-xx-x...
BRUCE W. BURNEY xxx-xx-x...
DAVID C. BURNS xxx-xx-x...
PATRICK H. BURNS xxx-xx-x...
JOSEPH W. BUTLER xxx-xx-x...
FRED J. BYROD xxx-xx-x...
LYLE W. CARLSON xxx-xx-x...
LOUIS P. CHIASSON xxx-xx-x...
EDWARD J. CIBA xxx-xx-x...
LARRY J. CLARK xxx-xx-x...
ANDREW B. CORNELL xxx-xx-x...
EDWARD O. CRANDELL xxx-xx-x...
MELINDA E. DEFFER xxx-xx-x...
CARROLL R. *. DOTSON xxx-xx-x...
JEFFREY DRIFMEYER xxx-xx-xx...
MICHAEL S. EDWARDS xxx-xx-x...
ROBERT R. ENG xxx-xx-x...
LEIGH S. *. FAIRCHILD xxx-xx-xxxx
JACK C. FARRIS xxx-xx-x...
MICHAEL J. FEELEY xxx-xx-x...
RANDELL G. FLOOD xxx-xx-x...
MICHAEL D. GARRETT xxx-xx-x...
PAUL E. GILLETTE xxx-xx-x...
ROBERT W. GOMBESKI xxx-xx-x...
HARRY R. GOOD xxx-xx-x...
DENNIS P. GOODES xxx-xx-x...
STANLEY D. HARMER xxx-xx-x...
JOSEPH M. *. HARMON xxx-xx-x...
RENE A. HEIDENHEIM xxx-xx-x...
GERALD J. *. HENSLEY xxx-xx-x...
MICHAEL C. *. HICKS xxx-xx-x...
WESLEY S. HOHL xxx-xx-x...
DAVID A. HSIEH xxx-xx-xx...
JAMES J. JEROME xxx-xx-xx...
MONTIE S. JOHNSON xxx-xx-x...
MICHAEL B. KELLEY xxx-xx-x...
GLORIA *. KITSOPOULOS xxx-xx-x...
TERRY A. *. KLEIN xxx-xx-x...
KATHRYN H. KNUDSON xxx-xx-x...
MICHAEL P. KOCHEL xxx-xx-x...
JOHN R. LATCH xxx-xx-x...
JOHN C. LEVESQUE xxx-xx-x...
RICHARD R. *. LEVINE xxx-xx-x...
REBECCA J. MACKOY xxx-xx-x...
TIMOTHY MCCARTHY, JR xxx-xx-x...
DAVID B. MCCRADY xxx-xx-x...
MICHAEL J. *. MCCREERY xxx-xx-x...
ROBERT C. *. MESSNER xxx-xx-x...
DAVID D. MILLER xxx-xx-x...
TERRY R. MINTON xxx-xx-x...
PAUL B. MOURITSEN xxx-xx-x...
ROBERT J. MYERS xxx-xx-x...
VINCENT M. *. ODONNELL xxx-xx-x...
GERALD A. *. OGDEN xxx-xx-x...
DONALD A. *. OHARE xxx-xx-x...
TERRY L. OWENS xxx-xx-x...
CARY J. PAYNE xxx-xx-x...
RANDY PERRY xxx-xx-x...
LESLIE J. PETERS xxx-xx-xx...
KOTU K. PHULL xxx-xx-x...
EDWARD R. PONATOSKI xxx-xx-x...
BILLY R. PORTER xxx-xx-x...
JOHN B. *. POWELL xxx-xx-x...
RICHARD W. PROUTY xxx-xx-x...
RONNIE L. *. RAHM xxx-xx-x...
TERRY M. *. RAUCH xxx-xx-x...
EDWARD W. RAWLS xxx-xx-x...
DANIEL D. REMUND xxx-xx-x...
DANNY G. RICHARDSON xxx-xx-x...
KELLEY C. ROBERSON xxx-xx-x...
RENE J. *. ROBICHAUX xxx-xx-x...
ROBERT C. ROBINSON xxx-xx-x...
DAVID O. ROCKWELL xxx-xx-x...
HILUARD G. ROGERS xxx-xx-x...
JAMES A. ROMANO xxx-xx-x...
RONALD M. *. ROSENBERG xxx-xx-x...
KURT A. *. SANFTLEBEN xxx-xx-x...
THOMAS P. SAXEN xxx-xx-x...
THOMAS J. SCHMITT xxx-xx-x...
LEON C. SCOTT xxx-xx-x...
GLENN C. SIMPSON xxx-xx-x...
DAVID A. *. SMART xxx-xx-x...
MICHAEL C. SPRADLIN xxx-xx-x...
ETHAN J. STANSBURY xxx-xx-x...
PHILLIP W. SWINNEY xxx-xx-x...
BRUCE F. SYLVIA xxx-xx-x...
JOHN D. THOMAS xxx-xx-x...
J. H. *. THORNBURGH xxx-xx-x...
JEFFREY TOMLINSON xxx-xx-x...
MICHAEL TORSTRICK xxx-xx-x...
CLARENCE D. VESELY xxx-xx-x...
MICHAEL E. WALKER xxx-xx-x...
JOSEP WANERSDORFER xxx-xx-x...
JOHN C. WEISER xxx-xx-x...
MICHAEL D. WHEELER xxx-xx-x...
ROGER S. *. WHITEAKER xxx-xx-x...
LARRY W. WILD xxx-xx-x...
DAVID W. WILLIAMS xxx-xx-x...
JOHN E. WILSON xxx-xx-x...
ERIC J. YOSHIHASHI xxx-xx-x...

VETERINARY CORPS

To be lieutenant colonel

DAVID E. HOPSON xxx-xx-x...
ROBERT E. *. HUNT xxx-xx-x...
GERALD B. *. JENNINGS xxx-xx-x...
CHARLES KELSEY, JR xxx-xx-x...
JAMES G. MACMILLAN xxx-xx-x...
DENVER D. *. MARLOW xxx-xx-x...
MIKE D. MCGUIRE xxx-xx-x...
GEORGE E. MOORE xxx-xx-x...
LYNN E. NORMAN xxx-xx-x...
THOMAS N. POOL xxx-xx-x...
ROBERT R. SMITH xxx-xx-x...
RICHARD R. *. STOTTS xxx-xx-x...
DEWAYNE G. TAYLOR xxx-xx-x...

ARMY NURSE CORPS

To be lieutenant colonel

CAROLYN S. *. ADKINS xxx-xx-x...
LINDA C. ALLEN xxx-xx-x...
CRAIG E. ANDERSON xxx-xx-x...
WILLIAM T. AVANT xxx-xx-x...
LYNN A. BALDVINS xxx-xx-x...
CATHERINE B. BEATTY xxx-xx-x...
WYNON BICESTEPHENS xxx-xx-x...
JOHN H. BOND, JR xxx-xx-x...
SANDRA L. *. BRUNKEN xxx-xx-x...
KERRY A. *. BYERS xxx-xx-x...
KATHLEEN M. CARVILL xxx-xx-x...
ANNE M. CAYLOR xxx-xx-x...
PATRICIA CEFALY xxx-xx-x...
DENISE L. CHANDLER xxx-xx-x...
SERGIO J. CHOY xxx-xx-x...
CHRISTINE E. *. COBB xxx-xx-x...
MARTHA L. CROSWELL xxx-xx-x...
DONNA M. *. DAVIS xxx-xx-x...
NANCY N. *. DAVIS xxx-xx-x...
SUSAN I. *. DAZE xxx-xx-x...
ELAINE M. DECESARE xxx-xx-x...
LOIS J. DICKINSON xxx-xx-x...
CYNTHIA A. DODD xxx-xx-x...
MARCIA M. DYER xxx-xx-x...
JOAN P. *. EITZEN xxx-xx-x...
MICHAEL S. *. EVANS xxx-xx-x...
CHARLES T. EWALD xxx-xx-x...
PRINCESS L. *. FACEN xxx-xx-x...
RITA L. *. FERGUSON xxx-xx-x...
WILLIAM E. FINNEY xxx-xx-x...
LARK A. FORD xxx-xx-x...
MELISSA A. FORSYTHE xxx-xx-x...
GRACE O. *. FRANKLIN xxx-xx-x...
WANDA A. FUSCHINO xxx-xx-x...
CAROL A. GERSON xxx-xx-x...
BARBARA GSCHEIDLE xxx-xx-x...
JOHN R. HAGAN xxx-xx-x...
ANN E. HALLIDAY xxx-xx-x...
ROY A. HARRIS xxx-xx-x...
SHEILA A. *. HARRIS xxx-xx-x...
PATRICIA A. *. HARVEY xxx-xx-x...
FAY E. *. HATTER xxx-xx-x...
GINGER K. *. HAYES xxx-xx-x...
KAREN T. HAYSLETT xxx-xx-x...
SUZANNE J. HIGGINS xxx-xx-x...
PAMELA J. HILDRETH xxx-xx-x...
SHIRLEY D. *. HILL xxx-xx-x...
JOSEPH F. HINES xxx-xx-x...
PAMELA A. HOAGLUND xxx-xx-x...
BARBARA A. *. JACKSON xxx-xx-x...
CATHY J. *. JOHNSON xxx-xx-x...
JEANNETT KARNOFSKY xxx-xx-x...
TAMI L. KEPHART xxx-xx-x...
DEANNE M. KILIAN xxx-xx-x...
JOANN P. *. LAWING xxx-xx-x...
JOHN V. LEWIS xxx-xx-x...
YVONNE F. LOPEZ xxx-xx-x...
SARALORRA *. MARSHALL xxx-xx-x...
SUSAN N. MARTIN xxx-xx-x...
FREDRICK L. *. MASTERS xxx-xx-x...
ROBERT J. MELE xxx-xx-x...
RORY C. MILLER xxx-xx-x...
MARYANN MONTEITH xxx-xx-x...
BONNIE L. *. MORELAND xxx-xx-x...
GLENDA *. MOUNTCASTLE xxx-xx-x...
EILEEN M. *. MUNN xxx-xx-x...
NICOLE B. *. NATER xxx-xx-x...
REA M. *. NUPPENAU xxx-xx-x...
TERRY L. PABST xxx-xx-x...
CAROL J. PIERCE xxx-xx-x...
SHIRLEY T. PINCKNEY xxx-xx-x...
BERYL K. PIXLEY xxx-xx-x...
SUSAN D. PLUMLEY xxx-xx-x...
SHARON S. PRINKEY xxx-xx-x...
TERRY R. ROACH xxx-xx-x...
DENNIS L. ROBBINS xxx-xx-x...
CATHERINE K. *. ROCCO xxx-xx-x...
JUAN SANDOVAL xxx-xx-x...
MIG SANTIAGORIVERA xxx-xx-x...
PATRICIA SAULSBERY xxx-xx-x...
CATHERINE SCHEMPF xxx-xx-x...
NATALIE M. SHRIVER xxx-xx-x...
KATHLEEN L. SIMPSON xxx-xx-x...
CHRISTIE A. SMITH xxx-xx-x...
SAMUEL C. SORBELLO xxx-xx-x...
JEAN M. *. STASH xxx-xx-x...
SUSAN M. *. STEINFELD xxx-xx-x...
CHARLES K. STETZ xxx-xx-x...
ELIZABETH SUDDUTH xxx-xx-x...
MICHAEL J. SUTTER xxx-xx-x...
ANTOINETT TRAFFORD xxx-xx-x...
GREGORY C. WALSH xxx-xx-x...
JAMES R. WEBER xxx-xx-x...
KATHY J. WEISHEIT xxx-xx-x...
JUANITA H. *. WINFREE xxx-xx-x...
YVONNE B. WRIGHT xxx-xx-x...
WILLIAM J. *. WYCKOFF xxx-xx-x...
DONALD B. ZAMORA xxx-xx-x...

MEDICAL CORPS

To be major

JEFFREY R. *. ABRAMS xxx-xx-x...
LYNE B. *. AIGNER xxx-xx-x...
EVELYN *. ALBA xxx-xx-x...
JOHN P. *. ALBANO xxx-xx-x...
JAMES K. *. ALLEN, I xxx-xx-x...
THOMAS W. *. ALLEN xxx-xx-x...
RUBEN J. *. ALVERO xxx-xx-x...
STEVEN L. *. ANDERSEN xxx-xx-x...
DAVID R. *. ANDERSON xxx-xx-x...
MILLER M. *. ARMSTRONG xxx-xx-x...
ANDREW *. ARTENSTEIN xxx-xx-x...
NOEL S. *. BAKER xxx-xx-x...
SHARON L. *. BALL xxx-xx-x...
JOSEPH D. *. BARKER xxx-xx-x...
DEBORAH W. *. BARNES xxx-xx-x...
CHRISTOPH *. BARTLETT xxx-xx-x...
DAVID G. *. BATES xxx-xx-x...
MICHAEL A. *. BATTISTA xxx-xx-x...
FRANK A. *. BAUER xxx-xx-x...
ERNA D. *. BAUTINA xxx-xx-x...
CECIL W. *. BEAN xxx-xx-x...
JEFFREY A. *. BECKER xxx-xx-x...
RICHARD T. *. BEITZ xxx-xx-x...
BRENDA K. BELL xxx-xx-x...
GORDON A. *. BELL xxx-xx-x...
DAVID A. *. BELYEA xxx-xx-x...
JOHN M. *. BENNETT xxx-xx-x...
STEVEN R. *. BERANEK xxx-xx-x...
RENEE M. BERNIER xxx-xx-x...
WAYNE J. *. BERRY xxx-xx-x...
ELIZAB *. BETTENCOURT xxx-xx-x...
KATHRYN L. *. BILELLO xxx-xx-x...
RICHARD H. *. BIRDSONG xxx-xx-x...
LISA A. *. BLACK xxx-xx-x...
BENJE H. *. BOEDEKER xxx-xx-x...
MARK W. *. BONNER xxx-xx-x...
ALAN C. *. BOUDOUSQUIE xxx-xx-x...
DAVID J. BOWER xxx-xx-x...
KENT L. BRADLEY xxx-xx-x...
DAVID J. *. BRADSHAW xxx-xx-x...
BENNY E. *. BRANDVOLD xxx-xx-x...
VANCE J. *. BRAY xxx-xx-x...
ALBERT V. BRITO xxx-xx-x...
JOHN B. *. BROWNING xxx-xx-x...
RANDY L. *. BUCKNER xxx-xx-x...
PETER C. *. BUETOW xxx-xx-x...

DAVID H. *. BURCHENAL xxx-xx-x...
BRIAN J. *. BURKE xxx-xx-x...
PATRICIA E. *. BURKE xxx-xx-x...
TIMOTHY A. *. BURKE xxx-xx-x...
BRETT C. *. BUTLER xxx-xx-x...
CHARLES L. *. BUTTZ xxx-xx-x...
RAMON L. *. CABALLERO xxx-xx-x...
PATRICK A. *. CAMBIER xxx-xx-x...
ANDREW M. *. CAMEROTA xxx-xx-x...
GLENN C. *. CAMPBELL xxx-xx-x...
LEOPOLDO C. *. CANCIO xxx-xx-x...
ANTHONY J. *. CARBONE xxx-xx-x...
JAY W. *. CARLSON xxx-xx-x...
MICHAEL A. *. CAROME xxx-xx-x...
CLYDE T. *. CARPENTER xxx-xx-x...
STANLEY H. *. CARR xxx-xx-x...
BRAD A. *. CASE xxx-xx-x...
THOMAS J. *. CASEY xxx-xx-x...
REBECCA C. *. CAVAZOS xxx-xx-x...
ANITA I. *. CHANG xxx-xx-x...
ERIC Y. *. CHUNG xxx-xx-x...
DAVID A. *. CIOCHETTY xxx-xx-x...
DAVID W. *. COCKERILL xxx-xx-x...
ROBERT A. *. COE xxx-xx-x...
STEPHEN C. *. COLEMAN xxx-xx-x...
HERMAN E. *. COLLIER xxx-xx-x...
EDGAR *. COLON xxx-xx-x...
PATRICK D. *. CONABOY xxx-xx-x...
TERESA L. *. CONRAD xxx-xx-x...
PHILIP C. *. CORCORAN xxx-xx-x...
JOSEPH P. *. CRAVERO xxx-xx-x...
JOHN J. *. CROKE xxx-xx-x...
DAVID C. *. CROSLEY xxx-xx-x...
BARBARA A. *. CROTHERS xxx-xx-x...
DARRYL D. CUDA xxx-xx-x...
SUZANNE E. CUDA xxx-xx-x...
MICHAEL E. CULLITON xxx-xx-x...
DANIEL W. *. CUOZZO xxx-xx-x...
CHRISTOPHER *. DANBY xxx-xx-x...
BETH E. *. DAVIS xxx-xx-x...
DARWIN L. *. DAVIS xxx-xx-x...
DIRK R. *. DAVIS xxx-xx-x...
JOHN D. *. DAVIS xxx-xx-x...
SUSANNE *. DAYE xxx-xx-x...
DON A. *. DEARMITT xxx-xx-x...
PHILIP A. *. DEFFER xxx-xx-x...
PERALES R. *. DELVALLE xxx-xx-x...
BRIAN D. *. DEMBY xxx-xx-x...
MICHAEL L. *. DILLARD xxx-xx-x...
TIMOTHY *. DILLINGHAM xxx-xx-x...
RONALD C. *. DORMAN xxx-xx-x...
MARK E. *. DOROGY xxx-xx-x...
DOUGLAS W. *. DOTHAGER xxx-xx-x...
WILLIAM C. *. DOUKAS xxx-xx-x...
WILLIAM R. *. DREWRY xxx-xx-x...
BRADFORD D. DRURY xxx-xx-x...
MATTHEW E. *. DUBAN xxx-xx-x...
PATRICK E. *. DUFFY xxx-xx-x...
ALBERT B. DUNCAN xxx-xx-x...
SUSAN G. DUNLOW xxx-xx-x...
DENNIS P. EASTMAN xxx-xx-x...
BRIAN W. *. EBERTS xxx-xx-x...
TERRY L. ENG xxx-xx-x...
TONY Y. ENG xxx-xx-x...
CHARLES C. *. ENGEL xxx-xx-x...
MARK J. *. ENZLER xxx-xx-x...
JOHN W. *. ESCOLAS xxx-xx-x...
STEVEN E. *. FARRELL xxx-xx-x...
GARY P. *. FAZIO xxx-xx-x...
ALBERT G. *. FEDALE xxx-xx-x...
JAMES R. *. FICKE xxx-xx-x...
SUSAN L. FRASER xxx-xx-x...
IVONNE E. *. GALARZA xxx-xx-x...
JAY P. *. GAUCHER xxx-xx-x...
GARY D. *. GAZENSKI xxx-xx-x...
JOHN R. *. GELINAS xxx-xx-x...
JUSTINE M. *. GELINES xxx-xx-x...
ROGER K. GEORGE xxx-xx-x...
ANDREW T. *. GERGELY xxx-xx-x...
GEORGE N. GIACOPPE xxx-xx-x...
ENRICO *. GIANGERUSO xxx-xx-x...
DAVID L. GILLESPIE xxx-xx-x...
VIRGIL L. *. GRAHAM xxx-xx-x...
CHRIS J. *. GRAMMAR xxx-xx-x...
MICHAEL R. *. GREEN xxx-xx-x...
BRUCE K. *. GREENBERG xxx-xx-x...
STEPHEN C. *. GROO xxx-xx-x...
JEFFREY M. *. GROSSMAN xxx-xx-x...
JOYCE C. *. GULLE xxx-xx-x...
VINITA *. GUPTA xxx-xx-x...
DAVID K. *. GUSTAVISON xxx-xx-x...
LOUIS M. *. GUZZI xxx-xx-x...
MICHAEL F. *. HAGGERTY xxx-xx-x...
STEVEN C. *. HAHN xxx-xx-x...
MICHAEL E. *. HALLIGAN xxx-xx-x...
ELAINE L. *. HAMILTON xxx-xx-x...
JAMES E. *. HANCOCK xxx-xx-x...
MARK O. *. HANSEN xxx-xx-x...
BURNETT *. HANSON xxx-xx-x...
BART J. *. HARMON xxx-xx-x...
GARY M. HARRELL xxx-xx-x...
MA *. HARTNETTGOODMAN xxx-xx-x...
RICHARD T. *. HATCH xxx-xx-x...
RICHARD B. *. HECKER xxx-xx-x...
HOWARD *. HEIDENBERG xxx-xx-x...
THOMAS D. *. HEIDEWALD xxx-xx-x...
PAUL J. *. HERZWURM xxx-xx-x...
STEVEN P. HESS xxx-xx-x...
HUGH *. HETHERINGTON xxx-xx-x...
KAREN A. *. HICKS xxx-xx-x...
STEVEN E. *. HILL xxx-xx-x...
JEFFREY *. HINES xxx-xx-x...

CHARLES L. *. HINTON xxx-xx-x...
RODNEY *. HOLLIFIELD xxx-xx-x...
RICHARD S. *. HOLMAN xxx-xx-x...
JOHN J. HORAN xxx-xx-x...
LARRY E. *. HOWARD xxx-xx-x...
KATHRYN S. *. HOWELLS xxx-xx-x...
JAMES E. *. HUBBARD xxx-xx-x...
MARK C. *. HUDSON xxx-xx-x...
BRIAN J. *. HUGHES xxx-xx-x...
GREGORY B. HUGHES xxx-xx-x...
HAROLD W. *. HUGHES xxx-xx-x...
AMY K. *. HUNTER xxx-xx-x...
CARLA R. *. IAVARONE xxx-xx-x...
KATHLEEN *. INGWERSEN xxx-xx-x...
DEAN A. *. INOUYE xxx-xx-x...
THOMAS W. *. IRVINE xxx-xx-x...
JOHN S. *. JACKSON xxx-xx-x...
RAYMOND K. *. JARMAN xxx-xx-x...
BARBARA L. *. JENNINGS xxx-xx-x...
CHARLES *. JENNISSEN xxx-xx-x...
RONALD D. JOHNSON xxx-xx-x...
MIROSLAWA W. *. JONES xxx-xx-x...
WILLIAM *. JORGENSEN xxx-xx-x...
DONALD R. *. JOYCE xxx-xx-x...
ARTHUR G. *. KANE xxx-xx-x...
KENT A. *. KARREN xxx-xx-x...
THOMAS *. KEPCZYK xxx-xx-x...
KENT E. *. KESTER xxx-xx-x...
SANDRA J. *. KHOURY xxx-xx-x...
LAUREL L. *. KIETZMAN xxx-xx-x...
DONALD G. *. KIM xxx-xx-x...
BARRY W. *. KING xxx-xx-x...
DAVID B. *. KIRKLE xxx-xx-x...
KURT *. KLEINSCHMIDT xxx-xx-x...
PETER E. *. KNOTT xxx-xx-x...
BRENDA F. *. KODAMA xxx-xx-x...
KAREN A. KOSKI xxx-xx-x...
GEORGINA D. *. KRIZSA xxx-xx-x...
THADDEUS *. KROLICKI xxx-xx-x...
ROBERT A. *. KUPCHA xxx-xx-x...
RICHARD A. *. KURNOT xxx-xx-x...
LAWRENCE A. *. LABBATE xxx-xx-x...
DEBORAH A. LABEAU xxx-xx-x...
WILLIAM L. *. LASSWELL xxx-xx-x...
STEVEN P. *. LAWRENCE xxx-xx-x...
ELIZABETH A. *. LEAHY xxx-xx-x...
MARK S. *. LEBOVITS xxx-xx-x...
DAVID T. *. LEE xxx-xx-x...
MARK W. LEE xxx-xx-x...
ROBERT J. LENGYEL xxx-xx-x...
MARTHA K. *. LENHART xxx-xx-x...
KRAIG S. *. LERUD xxx-xx-x...
DONALD J. *. LEWIS xxx-xx-x...
ALLEN K. *. LIEBERMAN xxx-xx-x...
GEOFFREY S. *. LING xxx-xx-x...
ROBERT J. *. LODATO xxx-xx-x...
JAMES B. *. LONG xxx-xx-x...
JOSEPH B. *. LONG xxx-xx-x...
JEFFREY L. LONGACRE xxx-xx-x...
RAYMOND A. *. LOPEZ xxx-xx-x...
EDWARD B. LUCCI xxx-xx-x...
CELESTE A. *. LUJAN xxx-xx-x...
JANET D. *. LYONS xxx-xx-x...
EILEEN M. *. MAHONEY xxx-xx-x...
KAREN M. *. MAHONEY xxx-xx-x...
RACHEL I. *. MANDEL xxx-xx-x...
MARK C. *. MARIA xxx-xx-x...
CHRIS J. *. MARINO xxx-xx-x...
GLENN R. *. MARKENSON xxx-xx-x...
JOHN B. *. MARSHALL xxx-xx-x...
JAMES P. *. MARTIN xxx-xx-x...
STEVEN L. *. MARTIN xxx-xx-x...
ALBERT J. MARTINS xxx-xx-x...
MARY P. *. MAY xxx-xx-x...
HOLMAN P. *. MCADAMS xxx-xx-x...
DANIEL M. *. MCCALLUM xxx-xx-x...
UNA D. *. MCCANN xxx-xx-x...
BRIAN F. *. MCCRARY xxx-xx-x...
GORDON R. *. MCDEVITT xxx-xx-x...
WILLIAM T. *. MCGRAIL xxx-xx-x...
RICHARD M. MCKNIGHT xxx-xx-x...
SCOTT D. MCLEAN xxx-xx-x...
WILLIAM A. *. MCLEOD xxx-xx-x...
PAUL G. *. MEADE xxx-xx-x...
JOAN Y. *. MEEK xxx-xx-x...
ALLEN J. *. MEGLIN xxx-xx-x...
WILLIAM L. *. MELCHER xxx-xx-x...
FRED A. *. MERRILL xxx-xx-x...
CHRISTINE *. MESSMANN xxx-xx-x...
JAMES I. *. MEYER xxx-xx-x...
RUSSELL B. *. MIDKIFF xxx-xx-x...
DAVID W. *. MILLER xxx-xx-x...
FLETCHER F. *. MILLER xxx-xx-x...
WILLIAM *. MILUSZUSKY xxx-xx-x...
DAVID B. *. MISNER xxx-xx-x...
SHARON S. *. MITCHELL xxx-xx-x...
ALLAN J. *. MOEDE xxx-xx-x...
DONALD G. *. MONDRAGON xxx-xx-x...
MICHAEL J. MOONEY xxx-xx-x...
PAUL M. *. MOORE xxx-xx-x...
ROBERT K. *. MOORE xxx-xx-x...
RALPH W. *. MORALES xxx-xx-x...
TER *. MORALESRAMOS xxx-xx-x...
KEVIN J. *. MORK xxx-xx-x...
TIMOTHY A. *. MOSES xxx-xx-x...
RONDLE M. *. MOUBRY xxx-xx-x...
MICHAEL J. MROCHEK xxx-xx-x...
PAUL T. *. MURPHY xxx-xx-x...
LINDA *. MURRAY xxx-xx-x...
JAMES F. *. NEWCITY xxx-xx-x...
HAROLD B. *. NIMS xxx-xx-x...
SIMONE *. NOMIZU xxx-xx-x...

WILLIAM *. NOVAKOSKI xxx-xx-x...
PAUL T. *. OCONNOR xxx-xx-x...
BRIAN P. *. ODONNELL xxx-xx-x...
BARBARA L. *. ONEILL xxx-xx-x...
THOMAS D. *. OSTRONIC xxx-xx-x...
STEPHEN R. *. PALMER xxx-xx-x...
SUSAN L. *. PARKS xxx-xx-x...
CATHY J. *. PARSELLS xxx-xx-x...
MARK D. *. PEACOCK xxx-xx-x...
BRENDA J. *. PEAK xxx-xx-x...
ANITA M. PEDERSEN xxx-xx-x...
ROBERT C. PEDERSEN xxx-xx-x...
CAREY L. *. PENROD xxx-xx-x...
RANDOLPH *. PETERSON xxx-xx-x...
DAWKINS T. *. PHILLIPS xxx-xx-x...
JOSEPH P. *. PINEAU xxx-xx-x...
JAMES A. POLO xxx-xx-x...
KATHLEEN B. *. POLO xxx-xx-x...
JEFFREY *. POMERANTZ xxx-xx-x...
SCOTT G. *. POSTELL xxx-xx-x...
DOUGLAS A. *. PRAGER xxx-xx-x...
ANN R. *. PRICE xxx-xx-x...
JEFFREY G. PRIEST xxx-xx-x...
RALPH A. *. PRIMELO xxx-xx-x...
SAMUEL G. *. PUTNAM xxx-xx-x...
REGINA M. *. RAAB xxx-xx-x...
BENNETT L. *. RADFORD xxx-xx-x...
MICHAEL A. *. RANDOLPH xxx-xx-x...
THOMAS C. *. REALS xxx-xx-x...
JAMES M. *. REBIK xxx-xx-x...
LEONARD G. *. RENFER xxx-xx-x...
ANTONIO *. REYES xxx-xx-x...
DAVID A. *. RINALDI xxx-xx-x...
ELSPETH C. *. RITCHIE xxx-xx-x...
MARK E. *. ROBSON xxx-xx-x...
KEVIN G. *. RODGERS xxx-xx-x...
AND *. RODRIGUEZMUNOZ xxx-xx-x...
MARK A. *. ROSENBERG xxx-xx-x...
RICHARD E. *. ROSIN xxx-xx-x...
ROBERT T. *. RUIZ xxx-xx-x...
PETER D. *. RUMM xxx-xx-x...
GUY P. RUNKLE xxx-xx-x...
RAMZI W. *. SAAD xxx-xx-x...
BETH M. *. SANDMAN xxx-xx-x...
LESTER M. SANDMAN xxx-xx-x...
MICHAEL A. *. SAWYER xxx-xx-x...
ALOK C. *. SAXENA xxx-xx-x...
EDWARD B. *. SCHMIDT xxx-xx-x...
LAWRENC *. SCHOELKOPF xxx-xx-x...
RAYMOND A. *. SCHWAB xxx-xx-x...
RONALD E. *. SCHWARTZ xxx-xx-x...
JOHN P. *. SCHWEGMANN xxx-xx-x...
LESLIE B. *. SCORZA xxx-xx-x...
BRIAN G. *. SCOTT xxx-xx-x...
CHARLES L. *. SCOTT xxx-xx-x...
ARIE T. *. SCRIBBICK xxx-xx-x...
FRANK W. SCRIBBICK xxx-xx-x...
CLARK L. *. SEARLE xxx-xx-x...
GAIL L. *. SEIKEN xxx-xx-x...
RAYMOND K. *. SEILER xxx-xx-x...
TIFFANY L. *. SERGI xxx-xx-x...
DEAN J. *. SHANLEY xxx-xx-x...
JANE *. SHENGUNTHER xxx-xx-x...
LUKE H. *. SHORT xxx-xx-x...
ADOLFO *. SILVA xxx-xx-x...
IRWIN B. *. SIMON xxx-xx-x...
MARK T. SISSON xxx-xx-x...
KARL V. *. SITZ xxx-xx-x...
KENTON L. *. SIZEMORE xxx-xx-x...
CLIFTON S. *. SLADE xxx-xx-x...
JAMES B. SMITH xxx-xx-x...
MARK A. *. SMITH xxx-xx-x...
SAHBRENNAH W. *. SMITH xxx-xx-x...
WALLACE B. *. SMITH xxx-xx-x...
WILLIAM E. *. SMITH xxx-xx-x...
GREGORY *. SNODGRASS xxx-xx-x...
FRANK C. *. SNYDER xxx-xx-x...
MICHAEL J. *. SNYDER xxx-xx-x...
CARL W. *. SOFLEY xxx-xx-x...
ROBERT A. *. SOLOMON xxx-xx-x...
DON P. SPEERS xxx-xx-x...
NICHOLAS *. SPELLMAN xxx-xx-x...
PAUL M. *. SPEZIA xxx-xx-x...
ROBERT S. *. SPRAGUE xxx-xx-x...
RICHARD S. STACK xxx-xx-x...
JAMES P. *. STANNARD xxx-xx-x...
WILLIAM K. *. STATZ xxx-xx-x...
EMIL A. *. STEIN xxx-xx-x...
GREGORY I. STONE xxx-xx-x...
JAMES W. *. STUTTS xxx-xx-x...
ROBERT E. *. SUTER xxx-xx-x...
RONALD SUTHERLAND xxx-xx-x...
JULIUS *. SZIGETI, II xxx-xx-x...
JOHN C. *. TALBOT xxx-xx-x...
DONALD *. TALLACKSON xxx-xx-x...
GILBERT R. *. TEAGUE xxx-xx-x...
DAVID C. *. TELLER xxx-xx-x...
HARRY T. *. TEMPLE xxx-xx-x...
JAMES B. *. THRASHER xxx-xx-x...
STEVEN M. *. TIERNAN xxx-xx-x...
BRUCE C. *. TIERNEY xxx-xx-x...
SHARON M. *. TOMASKI xxx-xx-x...
PETER G. *. TOROK xxx-xx-x...
ANDREW W. *. TORRANCE xxx-xx-x...
ESTELA *. TORRES, I xxx-xx-x...
MICHAEL T. *. TRAVIS xxx-xx-x...
LEONARD E. *. TROUT xxx-xx-x...
JOHN L. *. TROUTNER xxx-xx-x...
JEFFREY L. *. TURCOT xxx-xx-x...
KEVIN C. *. TURNER xxx-xx-x...
BARBARA L. *. TYLKA xxx-xx-x...
STEVEN R. *. VALLANCE xxx-xx-x...

CHARLES D. *. VARELA [redacted]
PAULA S. VOGEL [redacted]
DAVID J. *. WADDELL [redacted]
DOUGLAS A. *. WALDREN [redacted]
JOHN C. *. WALKER [redacted]
ELIZABETH *. WALLACE [redacted]
WILLIAM T. *. WALTON [redacted]
EDWARD J. *. WALZ [redacted]
GERALD D. *. WAREHAM [redacted]
ROCHELLE WASSERMAN [redacted]
ROBERT W. *. WATERMAN [redacted]
PETER V. *. WEBER [redacted]
SCOTT D. *. WEBER [redacted]
MARK L. *. WELCH [redacted]
TIMOTHY M. *. WELTER [redacted]
WALLY M. *. WERNER [redacted]
RANDALL F. *. WHITE [redacted]
KENNETH D. *. WICKER [redacted]
THOMAS M. WILEY [redacted]
JAMES A. *. WILKERSON [redacted]
MARK L. *. WILLIAMS [redacted]
DENNIS N. WILSON [redacted]
JOSEPH N. *. WILSON [redacted]
REGINALD W. *. WILSON [redacted]
SHIRLEY D. *. WILSON [redacted]
SUSAN T. *. WINGO [redacted]
TIMOTHY M. *. WINSLOW [redacted]
CLINTON G. *. WOLBOLDT [redacted]
DWIGHT W. WOOD [redacted]
TIMOTHY C. *. WOOD [redacted]
FREDERICK T. *. WORK [redacted]
ROBERT J. *. WOZNIAK [redacted]
MARY J. *. WYMAN [redacted]
FRANK H. *. YACKOVICH [redacted]
KAZUNORI *. YAMAMOTO [redacted]
TERRY D. *. YEAGER [redacted]
DARIUS S. *. YORICHI [redacted]
HAROLD D. *. YOUNG [redacted]
JAMES M. *. ZAENGLEIN [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED U.S. NAVAL ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

JAMES H. ADAMS, III [redacted]
BRENT K. ANDBERG [redacted]
GIBSON C. ARMSTRONG [redacted]
ERIC E. AUSTIN [redacted]
ROBERT H. BAKER [redacted]
ROBERT W. BARRY, JR [redacted]
DAVID C. BERGHULT [redacted]
JOHN A. BOLT [redacted]
MICHAEL J. BORGSCHULTE [redacted]
WILLIAM F. BOSS, JR [redacted]
BRETT A. BOURNE [redacted]
TIMOTHY A. BROOKS [redacted]
JOHN H. BRUGGEMAN, JR [redacted]
STEPHEN C. BRZOSTOWSKI [redacted]
ROBERT J. CALLAHAN [redacted]
WILLIAM L. CAMPBELL, JR [redacted]
STEVE L. CANTRELL [redacted]
MARIO D. CARAZO [redacted]
SCOTT D. CARSON [redacted]
THOMAS E. CHANDLER [redacted]
DONALD C. CHIPMAN [redacted]
TIMOTHY M. CHRISTENSON [redacted]
JONATHAN D. COLE [redacted]
MICHAEL C. CONOVER [redacted]
GUY R. COURSEY [redacted]
BRIAN E. CRANE [redacted]
SCOTT S. CREED [redacted]
GARETH L. CROSSLEY [redacted]
SUNIL B. DESAI [redacted]
DOUGLAS E. DUDGEON [redacted]
JON D. DUKE [redacted]
ROBERT H. DURYEA [redacted]
JEFFREY E. FALCONE [redacted]
TODD R. FINLEY [redacted]
WALTER E. FINNEY [redacted]
MICHAEL J. FOLEY, JR [redacted]
STEPHEN P. FORKEL [redacted]
ROBERT C. FRIEDMAN [redacted]
MICHAEL C. GERRY [redacted]
ARTHUR L. GLASGOW [redacted]
BRENT W. GOODRUM [redacted]
JASON X. HACKERSON [redacted]
PAUL C. HAGAR [redacted]
MATTHEW N. HESS [redacted]
ERIC W. HILDEBRANDT [redacted]
KELLY P. HOULGATE [redacted]
BRIAN F. HUSSEY, JR [redacted]
TRACEY E. JENKINS [redacted]
OWEN J. JONES [redacted]
PRESTON W. JONES [redacted]
MICHAEL C. KAISER [redacted]
CHRISTOPHER L. KELLEY [redacted]
BRENT R. KENDALL [redacted]
YOUNGJOON KIM [redacted]
ERIC D. KLEPPER [redacted]
JULIE A. KOHL [redacted]
MICHAEL J. LINDEMANN, JR [redacted]
KIMBERLY A. LIVINGSTON [redacted]
STUART R. LOCKHART [redacted]
CHRISTOPHER D. LOPES [redacted]
JOHN J. MARTIN [redacted]
SHAWN W. MCKEE [redacted]
PETER S. MERRILL [redacted]
ANTHONY J. MONACO [redacted]
SAMUEL P. MOWERY [redacted]
JAMES D. MULIK [redacted]
RICHARD F. NEITZEY [redacted]
CHRISTIAN L. NICEWARNER [redacted]
MARK T. PALMER [redacted]
JOSEPH J. PASQUITO [redacted]
JOHN E. PASSANT, IV [redacted]
GREGORY D. PRICE [redacted]
JOHN H. PYLANT, JR [redacted]
PAUL B. QUIMBY [redacted]
THOMAS R. REILLY [redacted]
MICHAEL W. RENTZ, JR [redacted]
JEFFREY S. RIBEL [redacted]
DANIEL B. ROBINSON [redacted]
DEAN E. ROBISON [redacted]
JAMES M. RUSSO [redacted]
ROBERT A. SANDRI [redacted]
ROBERTA L. SHEA [redacted]
DAVID P. SHEWFELT [redacted]
JOSHUA G. SKULE [redacted]
BRIAN M. SMITH [redacted]
SHAUN C. SPANG [redacted]
DAVID STOHS [redacted]
CRAIG D. SYBRANT [redacted]
ROBERT C. TAYLOR [redacted]
GUY A. TORRES [redacted]
BONIFACIO VINFRIDO [redacted]
DANIEL R. WAGNER [redacted]
ALEXANDER J. WAUGH [redacted]
CHRISTIAN F. WORTMAN [redacted]
PATRICK J. ZALESKI [redacted]
DOUGLAS D. ZIMBELMAN [redacted]

THE FOLLOWING NAMED U.S. AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 541:

JAMES E. SZEPESY [redacted]

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTIONS 531 AND [redacted]

SHERMAN E. ATKINSON [redacted]
PATRICK T. BARRY [redacted]
GUILLERMO A. CANEDO [redacted]
BRADUN DUNBAR [redacted]
GEORGE E. EHLERS [redacted]
PATRICK A. GAUGHAN [redacted]
BRUCE G. GRALER [redacted]
HAROLD J. HAUSER [redacted]
THOMAS K. HOBBS [redacted]
BRIAN P. KELLY [redacted]
PAUL L. KRUGGEL [redacted]
JAMES C. LEWIS [redacted]
VINCENT J. LUMALGURI [redacted]
MARK S. MINER [redacted]
LOWELL F. RECTOR [redacted]
DEE S. ROSSER [redacted]
JEROME J. RYAN [redacted]
STEVEN L. SCHAEFER [redacted]
MICHAEL D. SHERMAN [redacted]

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U. S. CODE, SECTION 531:

ANTHONY J. BALTES [redacted]
JOHN T. BLANCHARD [redacted]
ALAN E. BUSENBARK [redacted]
CHARLES W. JOHNSON [redacted]
STEPHEN P. MANGUM [redacted]
KERRY J. QUINN [redacted]
MICHAEL W. VICKREY [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate July 16, 1991:

DEPARTMENT OF DEFENSE

NANCY PATRICIA DORN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.